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16  
17 **UNITED STATES DISTRICT COURT**  
18 **CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**  
19

20 LOS ANGELES CATHOLIC  
21 WORKER, AN  
22 UNINCORPORATED  
23 ASSOCIATION; CANGRESS, A  
24 NON-PROFIT CORPORATION;  
25 HARRY JAMES JONES, LOUIS  
26 GRADY, LLOYD HINKLE,  
27 WALTER SHOAF, INDIVIDUALS,

28 Plaintiff(s),

vs.

LOS ANGELES DOWNTOWN  
INDUSTRIAL DISTRICT  
BUSINESS IMPROVEMENT  
DISTRICT, CENTRAL CITY EAST  
ASSOCIATION, INC., CITY OF  
LOS ANGELES; DOES 1 -10,

Defendant(s).

CASE NO. CV 14-07344 PSG (AJW)

**DECLARATION OF SHAYLA  
MYERS IN SUPPORT OF REPLY  
TO PLAINTIFFS' EX PARTE  
APPLICATION FOR SANCTIONS**

Discovery Cutoff Date: 4/4/2016

Pretrial Date: 7/7/2016

Trial Date: 7/19/2016

**Declaration of Shayla Myers**

1  
2 1. I am an attorney at the Legal Aid Foundation of Los Angeles  
3 and a lead attorney in this litigation. If called to testify, I could testify  
4 accurately to the facts herein.

5 2. On February 4, 2016, I provided Mr. Whitaker with a letter  
6 outlining issues with Defendant City of Los Angeles's email production of  
7 eight LAPD officers. I resent the letter to Mr. Whitaker on March 4, 2016.  
8 To date, Mr. Whitaker has not responded to the letter or my emails. A true  
9 and correct copy of the letter and email are attached as Exhibit A.

10 3. On February 22, 2016, I took the deposition of LeShon  
11 Frierson, which was necessary because the City of Los Angeles repeatedly  
12 represented that the City could not do a global search for emails from the  
13 LAPD that were responsive to our request. True and correct portions of that  
14 deposition are attached as Exhibit B. I spent three hours preparing for the  
15 deposition. I also spent .4 hours meet with our Information Technology  
16 Director related. Mr. Frierson's deposition lasted 3.6 hours.

17 4. Following the deposition of LeShon Frierson, the City  
18 continued to assert that the LAPD could not conduct global searches for  
19 responsive emails sent and received after March 2013. On February 23,  
20 2016, I spoke to Mr. Whitaker, who asserted that Global Searches were not  
21 possible. I read him a portion of the rough transcript, but he continued to  
22 deny that searches were possible.

23 5. Mr. Whitaker finally agreed that such searches were possible on  
24 February 25, 2016 after speaking to Mr. Frierson again. A true and correct  
25 copy of the email exchange is attached as Exhibit C.

26 6. On February 25, 2016, we provided Mr. Whitaker a list of  
27 email search terms to use to search for responsive LAPD emails. The City  
28 agreed to search for responsive documents. Attached as Exhibit D are true

1 and correct copies of emails sent regarding these outstanding issues. To date,  
2 the City has not provided any additional emails from anyone within the  
3 LAPD.

4 7. On February 26, 2016, I sent Mr. Whitaker a letter regarding a  
5 training video Plaintiffs believe was created by the CCEA for the LAPD but  
6 had not been produced. A true and correct copy of that letter is attached as  
7 Exhibit E. To date, Mr. Whitaker has not responded to this letter.

8 8. On March 8, 2016, following the deposition of Captain Oreb,  
9 Mr. Whitaker and I met and conferred regarding the outstanding production,  
10 and I reminded him that the City still had not produced LAPD emails, City  
11 emails, or documents from numerous departments. Mr. Whitaker indicated  
12 that he would not complete production by the Court-ordered deadline.

13 9. On Monday, March 14, 2016, a secretary from Mr. Whitaker's  
14 office contacted our office to inform us that the City would be producing  
15 documents. We received the documents via messenger at approximately  
16 3:30 that afternoon.

17 10. The documents produced included approximately 40,000 emails  
18 and attachments from the City of Los Angeles's email system. Because the  
19 documents were produced so late, and after this Court's order to produce the  
20 documents by March 11, 2016, a number of attorneys in my office were  
21 required to quickly review the production to ensure that the document  
22 production was complete. It was not. On March 15, 2016, following the  
23 review of the documents, I sent Mr. Whitaker a letter, explaining the issues  
24 with the production and the questions we had about the documents  
25 produced. I requested he provide a response by noon today so we could  
26 properly apprise this Court of the state of the production of documents.

27 11. Mr. Whitaker emailed me this morning, stating that he would  
28 get back to me this afternoon. As of 5:00 p.m. today, Mr. Whitaker has not

1 responded in any way to this letter. A true and correct copy of the letter and  
2 the corresponding emails are attached as Exhibit F.

3 12. Since January 11, 2016, I have spent 51.7 hours obtaining  
4 documents from Defendants responsive to Plaintiffs' Requests for  
5 Production. These hours include the following, in addition to a significant  
6 amount of additional time spent meeting and conferring with Defendant:

- 7 a. 21.8 hours leading up to the filing of the ex parte  
8 application;
- 9 b. 1.6 hours drafting and filing the supplemental declaration in  
10 support of Plaintiffs' Ex Parte application;
- 11 c. 7 hours preparing for and taking Defendant City's PMK  
12 related to the LAPD Information Technology and email  
13 system;
- 14 d. 2.6 hours reviewing documents produced the afternoon of  
15 March 14, 2016; and
- 16 e. 5.5 hours drafting this Reply brief.

17 Documentation for the hours up to the filing of the Ex Parte are attached as  
18 Exhibit G. Documentation for the hours between February 17, 2016 and  
19 present are attached as Exhibit H.

20 13. My 2016 billable rate is \$525.00. I am a 2008 UCLA Law  
21 graduate, and was admitted to the California Bar in 2009, following a  
22 clerkship with Sandra Segal Ikuta on the United States Court of Appeals for  
23 the Ninth Circuit. In 2015, I was approved at the hourly rate of \$450.00 per  
24 hour by Judge Klausner of the United States District Court, in *United States*  
25 *ex rel Harrison v. Shu-Hwa Baran et al.*, 14-CV-02639 (C.D. Cal 2015),  
26 which he noted was below market rate for civil rights (such as the matter  
27 before this case) and substantially lower than commercial litigation rates. A  
28 true and correct copy of the Court's order is attached as Exhibit I, page 3

1 (citing *Craft v. Cnty of San Bernardino*, 624 F.Supp.2d 1113, 1123 (C.D.  
2 Cal. 2008) and noting that Congress intended rates in civil rights cases to be  
3 comparable to those in complex commercial litigation). In 2015, my rate  
4 of \$500.00 per hour was approved by Judge Carter of the United States  
5 District Court in the matter of *Boyd v. Bank of America*, SACV13-00561  
6 (C.D. Cal. 2015), a wage and hour class action. A true and correct copy of  
7 the Declaration of Wilmer Harris in support of the Fees Award is attached as  
8 Exhibit J, ¶ 32-33. A true and correct copy of the Order granting final  
9 approval of the class action settlement is attached as Exhibit K, ¶ 12. In  
10 2016, the Legal Aid Foundation of Los Angeles adjusted its rates to be  
11 consistent with other market rates for commensurate cases. My current  
12 hourly rate is \$525.00. Therefore, Plaintiffs seek **\$27,142.50** in attorneys'  
13 fees, accrued since January 11, 2016, to obtain documents responsive to  
14 Plaintiffs' Request. This request does not include any work to file the  
15 original motion to compel, or the preceding efforts to meet and confer with  
16 Defendant.

17 14. In addition, because the City produced over 40,000 documents  
18 on March 14, 2016, after the deadline set by this Court, Plaintiffs had to  
19 review the documents very quickly in order to determine if there were any  
20 issues with the production (which there were). Jeanne Nishimoto, Fernando  
21 Gaytan, and Paul Estuar, spent 2.4, 4.7, and 2.6 hours, respectively,  
22 reviewing these documents. Jeanne Nishimoto's hourly rate is \$425.00 per  
23 hour for 2.4 hours; Fernando Gaytan's hourly rate is \$590.00 per hour for  
24 4.7 hours; and Paul Estuar's hourly rate is \$730.00 for 2.6 hours. Therefore,  
25 Plaintiffs seek **\$5,691.00** addition for the time spent by these attorneys  
26 reviewing these documents.

27 15. In addition, LAFLA Information Technology Director Joseph  
28 Ricks, is a certified expert in the email system used by the City of Los

1 Angeles, and participated in the deposition of LeShon Frierson. His hourly  
2 rate for consulting and expert work is \$250.00. Mr. Ricks spent 4 hours  
3 preparing for and attending the deposition. Therefore, Plaintiffs seek an  
4 additional **\$1000.00** for Mr. Rick's time.

5 16. In addition to fees, we also seek costs associated with this  
6 motion. These costs include \$1208.35 in costs related to the court reporting  
7 costs for the LeShon Frierson deposition, a true and correct copy of the  
8 invoice is attached as Exhibit L; and \$101.64 related to the cost of the  
9 transcript of the January 11, 2016 hearing, which was necessary for this  
10 filing. A true and correct copy of the invoice is attached as Exhibit M.  
11 These costs total **\$1,309.99**.


12 17. Finally, pursuant to this Court's order of January 29, 2016,  
13 where this Court required Defendant to allow Plaintiffs to take second  
14 depositions as necessary and pay costs and fees associated with those  
15 depositions, Plaintiffs expect we will need to take the depositions of  
16 Miranda Paster, Sergeant Walker, and Captain Oreb. Based on a  
17 conservative estimate of three hours of attorney time and \$1000.00 to cover  
18 the cost of Court Reporting per deposition, Plaintiffs also seek \$7750.00.

19 18. In total, the Legal Aid Foundation of Los seeks **\$42,893.49** to  
20 cover the fees and costs associated with the City's failure to produce  
21 responsive documents.

22  
23

24 I swear under penalty of perjury that the foregoing is true and correct.  
25 Executed this 16<sup>th</sup> of March, 2016 at Los Angeles, California.

26  
27  
28

  
Shayla Myers

**EXHIBIT A**

**Shayla R. Myers**

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**From:** Shayla R. Myers  
**Sent:** Friday, March 04, 2016 4:18 PM  
**To:** 'Ronald Whitaker'; Elizabeth Fitzgerald  
**Cc:** Catherine Sweetser  
**Subject:** LACW v. LADID, LAPD emails  
**Attachments:** 686051.PDF

Mr. Whitaker,

I am following up from our prior discussions regarding the LAPD emails. You previously stated that you would provide us with a list of custodians whose emails you propose to search for responsive documents for the time period of September 2010 to March 2013. We have not received that list.

Unless we review and approve the custodian list, we expect that the City will search the emails of all LAPD officers and command staff who were assigned to the Central Division for the relevant time period, and we expect that the City will produce all of these documents no later than next Friday, March 11, 2016.

We also still have not received a response to our February 4, 2016 letter regarding issues with the February 1 and February 3 LAPD email production. A copy of that letter is attached for your convenience.

In addition, we have not received proposed dates for Ms. Maddox or Ms. Lung-Tam.

Finally, we have not heard back from you regarding the City's outstanding discovery, which is now at least a week late. We requested that the City meet and confer regarding Plaintiffs' contemplated motion to compel. Are you available to meet and confer on Monday? We are amenable to meeting telephonically, if you are not available to meet in person.

Best,

Shayla

**Shayla R. Myers** | Staff Attorney  
**Legal Aid Foundation of Los Angeles**  
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213.640.3983 **direct** | 213.640.3988 **facsimile**  
[smyers@lafla.org](mailto:smyers@lafla.org) | [www.lafla.org](http://www.lafla.org)



The Frontline Law Firm for Poor and Low-Income People in Los Angeles

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## Legal Aid Foundation of Los Angeles

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Our File Number 13-1229292

**VIA EMAIL ONLY**

February 04, 2016

Ronald Whitaker  
Elizabeth Fitzgerald  
City Attorney of Los Angeles  
200 N. Main St., City Hall East, 9th Floor  
Los Angeles, CA 90012

Re: LACW v. LADID

Dear Counsel:

We have reviewed the approximately 257 pages of emails you produced on Monday and the additional documents you produced yesterday, February 3. As I mentioned on the phone yesterday, and as we attempted to communicate to you on Monday, the production raises a number of concerns.

1. The City produced two identical files on Monday, February 1. We informed you of this that day, but you did not respond, and you did not produce the second file until Wednesday afternoon. While we appreciate that there are sometimes errors in production, this error and the delay in even responding to us when we pointed it out meant that we did not receive the production you promised the Court you would produce on Monday until two days after the deadline (which we will remind you was already a week late). This is not the first time that such an error has led to delays, and given the continued tight time crunch, these delays are unacceptable.
2. Based on Mr. Whitaker's email and his representation to the Court on Friday, January 29, 2016, we are unclear what documents were produced, and we expect clarification as to the universe of documents were produced. Whose emails were searched and for what time period? The email you sent on Monday accompanying the production does not address this point, and given that this was an ongoing issue with Defendant's responses, we would expect that the City would abide by the Court's admonition at the hearing that the City communicate effectively what has been done. Therefore, we request that the City provide us with a clear statement of the universe of documents it has searched and is producing, along with each production. This will ensure that the parties are clear about what has been searched and is being produced.

Letter to Ronald Whitaker  
February 4, 2016  
Page 2 of 2

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3. We understand from Mr. Whitaker that the LAPD is not capable of doing a keyword search of emails, and as a result, these were the documents that the City identified as responsive to our requests, based on an email by email review of all of the custodians' emails. If that is in any way inaccurate, please let us know as soon as possible.
4. The Bates numbers on the documents are not consistent. Are the documents corresponding to the missing bates numbers not responsive to our requests, withheld on the basis of privilege, or not produced for some other reason?
5. A number of documents have attachments that were not produced, including emails Bates numbered 11894, 11937, and 12058 in the first production. Although I know Ms. Sweetser addressed this with you and you indicated that you would be responding shortly, the second production we received yesterday suffers from the same issues. In the second production, a number of emails are blank or do not contain attachments, including but not limited to Bates No. 8296, 8004-05, 8050, 8149, 8202, 8573, 8583, 110115, 11101, 11108. Please produce all attachments related to the emails immediately.

Finally, and most critically, the City has yet to indicate when they will produce the rest of the emails from the LAPD that are responsive to our email requests. As Judge Wistrich made very clear on Friday, January 29, the City's ongoing failure to produce responsive documents is unacceptable. The City is now more than 10 days beyond the time requested by the City and ordered by the Court for the completion of its production. The City did not respond during the conference to my request for clarification about when the production of the LAPD emails would be complete, and we have still not received any indication when the production will be complete. We expect an update no later than the end of the day tomorrow when we will receive the rest of the production from LAPD, including but not limited to emails from sergeants, SLOs, lieutenants, and email going back to September 2010 for command staff.

We look forward to your immediate response to these issues.

Sincerely,

/s

Shayla Myers  
Attorney

**EXHIBIT B**

LeShon Frierson

February 22, 2016

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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

LOS ANGELES CATHOLIC WORKER, )  
AN UNINCORPORATED ASSOCIATION; )  
CANGRESS, A NON-PROFIT )  
CORPORATION; HARRY JAMES JONES, )  
LOUIS GRADY, LLOYD HINKLE, )  
WALTER SHOAF, INDIVIDUALS, )

Plaintiffs, )

vs. )

LOS ANGELES DOWNTOWN INDUSTRIAL )  
DISTRICT BUSINESS IMPROVEMENT )  
DISTRICT; CENTRAL CITY EAST )  
ASSOCIATION, INC.; CITY OF )  
LOS ANGELES; DOES 1 - 10, )

Defendants. )

Case No.  
CV 14-07344 PSG (AJW)

DEPOSITION OF LeSHON FRIERSON

Los Angeles, California

Monday, February 22, 2016

Reported by: Dorien Saito  
CSR No. 12568  
NDS Job No.: 179845

1 Q. Okay. So it's your understanding that if I  
2 wanted -- if I requested a search to be done of a single  
3 keyword that each -- well, okay. Back up. Strike that.

4 Can LAPD do a global search of a single keyword  
5 across all LAPD personnel mailboxes?

6 A. Currently?

7 Q. Yes.

8 A. Yes.

9 Q. And when did that capability come on board?

10 A. In March of 2013.

11 Q. So could you explain to me how that search  
12 would work.

13 A. So that search is not done within Groupwise.  
14 In March of 2013, we stood up an email archiving system  
15 within the department that extracts or takes copies of  
16 the mail from GroupWise and stores them in a separate  
17 system that can be searched.

18 Q. And what system is that?

19 A. That's GWAVA Retain is the product. G-W-A-V-A.

20 Q. G-W-A-V-A.

21 A. Uh-huh. And Retain is the specific product.

22 Q. Okay. So as of March 2013, LAPD put in place  
23 the Retain system.

24 A. Uh-huh.

25 Q. Is that an add-on to the Groupwise system?

1 A. That is a third-party product. It's not a  
2 Novell product.

3 Q. Okay. But it's an add-on to the Groupwise  
4 system from a third party?

5 A. Yes.

6 Q. That allows to you to search across -- do a  
7 global search across all of LAPD email boxes?

8 A. Yes.

9 Q. Okay. And so you can plug in a keyword term,  
10 and it will identify all of the emails within the LAPD  
11 system that contain that individually the keyword?

12 A. Yes.

13 Q. Can you do a full text search across all --  
14 the -- the entire GroupWise server?

15 A. So that -- it does not search Groupwise. It  
16 searches its own message storing. It actually takes  
17 copies of the Groupwise messages and stores them within  
18 its own separate system.

19 Q. Okay.

20 A. And that system can search.

21 Q. And when are the emails extracted from the  
22 GroupWise to the Retain system?

23 A. Those jobs run nightly.

24 Q. Nightly.

25 So every night all of the emails within the

LeShon Frierson

February 22, 2016

1 Groupwise system are transferred over to the Retain  
2 system?

3 A. Anything that is does not already reside in  
4 Retain.

5 Q. Okay. So everything new?

6 A. Yes.

7 Q. It functions like a normal backup system.

8 You have everything, and then everything new  
9 gets added to it every night?

10 A. Yes.

11 Q. Okay. So last night everything that existed  
12 between March 2013 and last night of the point of  
13 transfer is in that Retain system?

14 A. Yes.

15 Q. Okay. And that's what can be searched in a  
16 full text search across the entire Group -- across the  
17 entire data set that's in Retain?

18 A. Yes.

19 Q. Okay. I appreciate your patience as I stumble  
20 through some of these words. Clearly, I am not an IT  
21 specialist.

22 Okay. And that has been in place since March  
23 of 2013?

24 A. Yes.

25 Q. Okay. And the Retain system, why was that --

LeShon Frierson

February 22, 2016

1                    Were you involved in the implementing or  
2                    \_\_\_\_\_  
obtaining of the Retain system?

3                    A.    Yes.

4                    Q.    Okay. And why did the LAPD purchase or license  
5                    \_\_\_\_\_  
the Retain system?

6                    A.    There was a need to have a record of all emails  
7                    \_\_\_\_\_  
sent and received in the system based on requests that  
8                    \_\_\_\_\_  
we got from various sources. And there was no way to do  
9                    \_\_\_\_\_  
that within the base Groupwise product.

10                  Q.    Okay. And when you say "requests," what kind  
11                  \_\_\_\_\_  
of requests do you mean?

12                  A.    Requests for production of documents, whether  
13                  \_\_\_\_\_  
it's Public Information Act or in response to lawsuits  
14                  \_\_\_\_\_  
or internal investigations.

15                  Q.    Okay. So in March of 2013, the city  
16                  \_\_\_\_\_  
implemented the Retain system to be able to respond to  
17                  \_\_\_\_\_  
requests for production, California Public Records Act  
18                  \_\_\_\_\_  
requests for emails that contained certain keywords?

19                  A.    The police department did, yes.

20                  Q.    Okay. So I understand that you can do a global  
21                  search of all personnel with keywords within this Retain  
22                  system.

23                                    Is it also possible to do a search for  
24                                    individual officer's emails using keywords?

25                  A.    Yes.



LeShon Frierson

February 22, 2016

1 Q. Okay. So if I told you that I wanted, for  
2 example, all emails with a specific keyword that were  
3 sent by or received by the captain of the Central  
4 Division, you could do that search?

5 A. As long as you can identify who that person is,  
6 yes.

7 Q. Okay. Is there any difference between doing a  
8 keyword search for an individual's email versus a  
9 systemwide global search of LAPD?

10 A. No.

11 Q. So there's no difference between searching, for  
12 example, the captain of the Central Division and  
13 searching all of LAPD from March 2013 to the present?

14 A. The only difference would be the amount of time  
15 the search would take.

16 Q. Okay. And how long would it take to do an  
17 individual email search?

18 MR. WHITAKER: It may call for speculation.

19 THE WITNESS: It's impossible for me to say.  
20 It is going to depend on what we are looking for, how  
21 large the mailbox is. Generally, that's going to take,  
22 you know, a few minutes to an hour.

23 BY MS. MYERS:

24 Q. For a single search?

25 A. For a single user.

LeShon Frierson

February 22, 2016

1 A. Correct.

2 Q. Okay. Any other ways to format a search that  
3 would get those?

4 A. Those are the only ways that I'm aware of.

5 Q. Okay. And since you implemented the Retain  
6 system in 2013 to make searching for responsive  
7 documents easier, have you done a formatted search --

8 A. Yes.

9 Q. -- for response documents?

10 A. Sorry. Yes.

11 Q. Okay. How often have you done those searches?

12 A. I can't tell you off the top of my head -- top  
13 of my head how many we've done.

14 Q. Okay.

15 A. We get several of those requests each month.

16 Q. Okay. And either you or Ms. McClain are  
17 responsible for running those searches?

18 A. Yes.

19 Q. In 2016, how many searches have you gotten,  
20 roughly? Requests for searches.

21 A. I believe there are -- there were twelve  
22 requests that came in so far.

23 Q. Do you have any idea in 2015 how many  
24 searches -- search requests came in?

25 A. I do not.

LeShon Frierson

February 22, 2016

1 within the six months, is that just from the main  
2 mailboxes?

3 A. Yes.

4 Q. Okay. So there are emails within the system  
5 that could go back years if an individual places them in  
6 folders?

7 MR. WHITAKER: It's vague and ambiguous.

8 THE WITNESS: Any -- no. The user would have  
9 to archive that email.

10 BY MS. MYERS:

11 Q. Okay.

12 A. If it's -- whether it's in a folder or not, if  
13 it's six months old and it's in the live mailbox, it is  
14 going to be deleted.

15 Q. Okay. So in March 2013 when the email system  
16 was transferred over that first day, did that capture,  
17 then, six months prior -- the emails six months prior?

18 A. No. We did not capture the entire mailbox when  
19 we began that. I believe what we did was we went back  
20 thirty days and started from there and moved forward.

21 Q. But you were duplicating the email boxes of the  
22 individuals when you were transferring them.

23 Is that not accurate?

24 A. You have the ability to determine how far back  
25 you reach within Retain to pull things. So you don't

1 have to pull the entire mailbox. We made the choice  
2 from a system standpoint architecturally to only load  
3 the previous month.

4 Q. So if I sent someone an email in January of  
5 2013, someone within the LAPD, that email was not  
6 retained within the Retain system even if it was in the  
7 person's live mailbox?

8 A. Most likely it would not be there.

9 Q. Are there any circumstances in which it would  
10 have been?

11 You said most likely.

12 A. Well, I've never actually looked at the entire  
13 message store to see if anything like that would have  
14 happened. I remember the original searches, and we only  
15 went back thirty days.

16 Q. And what do you mean, the original searches,  
17 you went back thirty days?

18 A. When I set up the system and began the  
19 archiving, we only went back thirty days to do it.

20 Q. Okay.

21 A. Whether there's a forward of an email that  
22 might contain information from previous email trail or  
23 something like that that would be in there that would  
24 give you previous information, I wouldn't know.

25 Q. Yeah. That, I understand. And I'm not asking

1 a comprehensive record. It is a point in time.

2 Q. Uh-huh.

3 A. Those backups were meant for disaster recovery  
4 purposes.

5 Q. So prior to March 2013, the city didn't have an  
6 email backup system other than its disaster recovery  
7 backup system?

8 A. Correct.

9 Q. Why was the decision made in March 2013 to not  
10 archive a year's worth of email that the city had in  
11 place?

12 A. I decided that we wanted to start that archive  
13 fresh. Didn't want to take the time that it would have  
14 taken to preload all of that old email. And we had a  
15 current backup of that email, so we didn't put it into  
16 Retain.

17 Q. Okay. So that current backup, you thought the  
18 Backup Exec would serve the same function as moving all  
19 of emails over at that point in time?

20 A. Correct.

21 Q. Okay. Prior to getting the Retain system, did  
22 the city use any of GroupWise's indexing capabilities to  
23 index emails across the entire email platform?

24 A. There is no such capability in Groupwise.  
25 Groupwise indexes per mailbox only for the Groupwise

1 search capability within the client. Groupwise has no  
2 archiving -- global archiving component to it. In order  
3 to do that, you have to purchase a third-party product.

4 Q. And so that's why the city in March of 2013  
5 purchased the Retain system. It was so that the city of  
6 Los Angeles or the LAPD could do these global searches?

7 A. Partly for the global searches, yes.

8 Q. Okay. What other reasons?

9 A. To facilitate searching, period, and to ensure  
10 that we had a complete record of all mail sent and  
11 received.

12 Q. To ensure that the city could -- or that the  
13 LAPD could respond to CPRAs and requests for production  
14 in discovery?

15 A. Yes.

16 Q. But as you sit here today, you've never run a  
17 search -- a global search of all LAPD personnel?

18 A. I have not, no.

19 Q. Okay. Is Retain software --  
20 You said it's a third-party vendor?

21 A. Uh-huh.

22 Q. Who's --

23 A. Yes.

24 Q. -- the vendor?

25 A. The vendor is GWAVA --

LeShon Frierson

February 22, 2016

1 Q. So the changes were straightforward enough so  
2 you could figure them out?

3 A. Yes.

4 Q. What is the --

5 What does the network use? Does it use Windows  
6 or Novell?

7 A. We're currently on a Novell network.

8 Q. And is that for the entire police department,  
9 not just the email system?

10 A. The entire police department.

11 Q. Does the Novell network have indexing  
12 capabilities across the network?

13 A. No.

14 Q. Do you know how much the -- the third party --  
15 strike that.

16 How much does it cost to use Retain every year?

17 A. I do not have the exact figure in my head.

18 It's -- I know it's somewhere in the \$25,000 a year  
19 range for software maintenance.

20 Q. Is that for software maintenance and for  
21 licensing?

22 A. Yes.

23 Q. Okay. So since March 2013, the city has paid  
24 approximately \$25,000 a year to use the Retain software?

25 A. Yes.

1 A. The duration of how far back, time frame  
2 specified.

3 Q. And the time that the search is running, is  
4 that just -- are you required to actively be involved in  
5 the searching, or does it just run?

6 A. Normally, it just runs unless there's some type  
7 of error condition.

8 Q. And does it run on a single computer?

9 A. Yes.

10 Q. Do you have a computer that is dedicated to  
11 doing searches?

12 A. The search would run on the Retain server  
13 itself. So there is one -- one server that would be  
14 responsible for those searches.

15 Q. Okay. If you had been asked on January 11 to  
16 run a global search of all of LAPD for keywords, could  
17 you have performed that search?

18 MR. WHITAKER: Vague and ambiguous. Incomplete  
19 hypothetical. Calls for speculation.

20 THE WITNESS: Could I have completed it?

21 BY MS. MYERS:

22 Q. Is there any reason why you could not have  
23 completed that search, could have run that search?

24 MR. WHITAKER: The same objections.

25 Go ahead.



1 THE WITNESS: From a technical standpoint, no.

2 BY MS. MYERS:

3 Q. From any other standpoint?

4 A. Well, we have a number of things in the  
5 pipeline. So running that type of search on a global  
6 basis would tie up server resources and possibly other  
7 things from being done for the duration of the search.

8 Q. But you don't know how long that search would  
9 take, do you?

10 A. No, I cannot tell you how long.

11 Q. And you don't know how long it took Ms. McClain  
12 to run the global search that she ran for all emails  
13 respond -- related to Los Angeles Municipal Code 6344?

14 A. I do not. I know she was assigned that project  
15 and she worked on it for about a week.

16 Q. Did she work on it exclusively, or did she have  
17 other tasks?

18 A. She had other tasks.

19 Q. So it took her a week doing her regular job in  
20 addition to that search?

21 A. Yes.

22 Q. Okay.

23 A. I believe she ran that search in batches rather  
24 than all at once.

25 Q. And what do you mean, ran in batches?

LeShon Frierson

February 22, 2016

1 A. Certain number of people at a time so that the  
2 server wasn't tied up extensively.

3 Q. Okay. And that didn't cause any problems that  
4 you, as the supervisor, were aware of?

5 A. No, I'm not aware of any problems from that.

6 Q. And as the supervisor if there were problems,  
7 you would be aware of them?

8 A. Yes.

9 Q. Okay. So there was no technical reason why you  
10 couldn't have done a global search for documents going  
11 back to March 2013?

12 A. No.

13 Q. On January 11?

14 A. No, not from a technical standpoint.

15 Q. What -- any other standpoints that would have  
16 caused you any problems running that search?

17 A. As I said, it would tie up server resources and  
18 prevent us from performing other requests that were in  
19 the pipeline.

20 Q. Okay. But as long as it was one of the  
21 requests in the pipeline, that's what the -- you all are  
22 tasked with doing, is running these kinds of searches;  
23 right?

24 A. Right.

25 Q. Okay. As you sit here today, have you been

LeShon Frierson

February 22, 2016

1                   How are they divided up? Alphabetically? By  
2                   division?

3                   A.    No.  They're not divided up in any discernable  
4                   way.  As I said, our terms are so transient that it was  
5                   impractical to try and segregate them in any -- in any  
6                   geographical way.

7                   Q.    Uh-huh.

8                   A.    So the users are spread across.  And all  
9                   users -- any user could be in any post office.

10                  Q.    Have you begun this process to extract emails  
11                  for this case?

12                  A.    No.

13                  Q.    Has there been a request to from your -- within  
14                  the department to begin this process --

15                  A.    No.

16                  Q.    -- for emails?

17                  A.    No.  I have not been instructed to -- to begin  
18                  this request.

19                  Q.    How long will it take to extract the emails for  
20                  individuals assigned to the Central Division?

21                  MR. WHITAKER:  It calls for speculation.

22                  BY MS. MYERS:

23                  Q.    If you know.

24                  A.    It's impossible to say.  It depends on how many  
25                  there are.

LeShon Frierson

February 22, 2016

1 backup for?

2 A. In this case, no.

3 Q. Okay. Have you done this in other cases?

4 A. Have we restored that information for others?

5 Yes.,

6 Q. When was the last time you did it?

7 A. December.

8 Q. Okay. Prior to that, when was the last time  
9 you did it?

10 A. I can't really say. We do it whenever we are  
11 requested to.

12 Q. In a year, can you estimate roughly how many  
13 times you've done it?

14 A. I cannot estimate how many times we've done it,  
15 but we do it on a fairly regular basis.

16 Q. When you restore the emails through this  
17 process, can you do keyword searches?

18 A. You could do a filtered search through the  
19 Groupwise client once you're in the mailbox.

20 Q. Okay. So in the searches that you do fairly  
21 regularly, are they -- these filtered searches using  
22 keywords?

23 A. Normally, no.

24 Q. What kinds of searches are they?

25 A. Normally, it is a request for all mail sent or

1 received or requests for mail between two parties.

2 Q. And those are fairly regular searches?

3 A. They have been fairly regular.

4 Q. Do they happen as part of litigation?

5 A. Yes.

6 MR. WHITAKER: You mean the fairly regular  
7 searches he's referring to?

8 MS. MYERS: Yes.

9 MR. WHITAKER: Okay.

10 THE WITNESS: Yes, it's on -- that's one.

11 BY MS. MYERS:

12 Q. That's one.

13 Do they also happen as part of requests for  
14 production in -- strike that.

15 They also happen as part of a request pursuant  
16 to the California Public Records Act?

17 A. Yes.

18 Q. And since we're on the same page, these are  
19 searches of the emails from prior to March 2013?

20 A. Correct.

21 Q. Any other reasons other than litigation and  
22 CPRA requests these searches happen?

23 A. Internal investigations.

24 Q. Other reasons?

25 A. Those are the only ones that I can think of.

1 Q. Okay. Do you have a rough breakdown of how  
2 often they happen for litigation as opposed to CPRA as  
3 opposed to internal investigations?

4 A. Nothing I could -- nothing I could say for --  
5 with any certainty.

6 Q. Okay. But there's not one that happens with a  
7 tremendous amount of frequency as opposed to the other  
8 ones?

9 A. I would say most of our requests are actually  
10 for internal investigations.

11 Q. And do you have a sense of what percentage?

12 A. I couldn't say.

13 Q. Okay. But you have a fair number of requests  
14 for litigation and for CPRAs?

15 A. Yes.

16 Q. And you fulfill those requests?

17 A. Yes.

18 Q. Do you remember when you spoke to Ms. McClain  
19 about the global searches related to this case prior to  
20 her going out on her maternity leave? Did you receive  
21 the request or did she receive the request for the --  
22 request for the searches?

23 A. The requests all come to me first.

24 Q. Okay. So you got the request.

25 Did you actually get a request for the

**EXHIBIT C**

**Shayla R. Myers**

---

**From:** Ronald Whitaker <ronald.whitaker@lacity.org>  
**Sent:** Thursday, February 25, 2016 7:30 AM  
**To:** Shayla R. Myers  
**Cc:** Elizabeth Fitzgerald; catherine.sdshhh@gmail.com  
**Subject:** Re: LACW v. LADID

Ms. Myers:

I intend to provide you with the proposed Stipulation today.

Also, I have been in touch with Mr. Frierson and confirmed that keyword searches can be performed globally on e-mails after March, 2013. You indicated that you would be forwarding a list of proposed keywords sought to be used during this search. Please provide me with that list at your earliest convenience.

Thank you.

On Thu, Feb 25, 2016 at 6:35 AM, Shayla R. Myers <[SMyers@lafila.org](mailto:SMyers@lafila.org)> wrote:

Counsel,

In light of Judge Wistrich's order and the hearing on March 21, we believe that a 30 day extension is sufficient. Please confirm that you intend to circulate a stipulation for a continuance of the trial dates for filing today. As I mentioned yesterday, If I do not hear from you by noon today, I will prepare and file an ex parte to be filed today.

Best,

Shayla

**Shayla R. Myers** | Staff Attorney  
**Legal Aid Foundation of Los Angeles**  
7000 S. Broadway | Los Angeles, CA 90003

213.640.3983 direct | 213.640.3988 facsimile

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--

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**EXHIBIT D**

**Shayla R. Myers**

---

**From:** Shayla R. Myers  
**Sent:** Thursday, February 25, 2016 10:57 AM  
**To:** 'Ronald Whitaker'  
**Cc:** Elizabeth Fitzgerald; catherine.sdshhh@gmail.com  
**Subject:** RE: LACW v. LADID  
**Attachments:** 689319.PDF

Mr. Whitaker,

We are comfortable with the City using the search terms we provided on 2/12 and again on 2/23 for the LAPD as well as the City. We have not heard from you that these terms create any issues, so we assume they are being used for the search of the City email.

I have attached them again for your convenience.

Best,

Shayla

**From:** Ronald Whitaker [<mailto:ronald.whitaker@lacity.org>]  
**Sent:** Thursday, February 25, 2016 7:30 AM  
**To:** Shayla R. Myers  
**Cc:** Elizabeth Fitzgerald; [catherine.sdshhh@gmail.com](mailto:catherine.sdshhh@gmail.com)  
**Subject:** Re: LACW v. LADID

Ms. Myers:

I intend to provide you with the proposed Stipulation today.

Also, I have been in touch with Mr. Frierson and confirmed that keyword searches can be performed globally on e-mails after March, 2013. You indicated that you would be forwarding a list of proposed keywords sought to be used during this search. Please provide me with that list at your earliest convenience.

Thank you.

On Thu, Feb 25, 2016 at 6:35 AM, Shayla R. Myers <[SMyers@lafla.org](mailto:SMyers@lafla.org)> wrote:

Counsel,

In light of Judge Wistrich's order and the hearing on March 21, we believe that a 30 day extension is sufficient. Please confirm that you intend to circulate a stipulation for a continuance of the trial dates for filing today. As I mentioned yesterday, If I do not hear from you by noon today, I will prepare and file an ex parte to be filed today.

Best,

Shayla

**Shayla R. Myers** | Staff Attorney  
**Legal Aid Foundation of Los Angeles**  
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--  
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\*\*\*\*\*

**Shayla R. Myers**

---

**From:** Shayla R. Myers  
**Sent:** Friday, February 26, 2016 3:02 PM  
**To:** 'Ronald Whitaker'; Elizabeth Fitzgerald  
**Cc:** 'Catherine Sweetser'  
**Subject:** LACW v. LADID  
**Attachments:** 696045.docx

Counsel,

To confirm our conversation this morning and to follow up:

1. Attached is a revised list of key word terms that contemplates removing CCEA and Central City East as search terms and replaces those terms with more narrow search terms. We are providing this in response to the City's concern that its proposed search terms "CCEA" and "central city east" generated a very large number of documents, and the possibility that these terms were hitting on documents that were not responsive to Plaintiffs' requests,
2. The City is to provide us a list of proposed custodians from the LAPD to search for responsive emails. This list will apply to emails sent and received between September 2010 and March 2013. With regards to emails sent after March 2013, the City will do a global search of all emails, using the search terms provided. I understand that the global search is currently underway.

Finally, we have not heard back from you regarding the proposed stipulation. We expect to be able to file the stipulation today, so we look forward to hearing from you if the proposed language is acceptable.

Best,

Shayla

**Shayla R. Myers** | Staff Attorney  
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**EXHIBIT E**

**Shayla R. Myers**

---

**From:** Shayla R. Myers  
**Sent:** Friday, February 26, 2016 12:08 PM  
**To:** 'Ronald Whitaker'; Elizabeth Fitzgerald  
**Cc:** 'catherine.sdshhh@gmail.com'  
**Subject:** LACW v. LADID-oustanding discovery  
**Attachments:** 695785.PDF

Counsel,

As I discussed on the phone with Mr. Whitaker, attached please find a letter regarding a training video we understand was created for the LAPD academy involving Ms. Lopez and related to BIDs and the City.

We look forward to your response.

Best,

Shayla

**Shayla R. Myers** | Staff Attorney  
**Legal Aid Foundation of Los Angeles**  
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**Santa Monica Office**, 1640 5<sup>th</sup> Street, Suite 124, Santa Monica, CA 90401 T: (310) 899-6200  
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Writer's Direct Line (213) 640-3983

Our File Number 13-1229292

**VIA EMAIL ONLY**

February 26, 2016

Ronald Whitaker  
Elizabeth Fitzgerald  
City Attorney of Los Angeles  
200 N. Main St., City Hall East, 9th Floor  
Los Angeles, CA 90012

Re: LACW v. LADID

Dear Counsel:

In the City's February 16, 2016 production, we received LADID's 3<sup>rd</sup> quarter 2012 report to the City Clerk, which includes a reference to a training video Ms. Lopez participated in at the LAPD Academy.

The document, bates numbered 12445, states that "On July 30, Lopez participated in a LAPD training video at the Academy. The video was made as an informational training tool that familiarizes trainees with the core mission of business improvement districts (BID), and the public/private relationship established between BIDs and law enforcement."

If such a video was created and exists, it would be clearly responsive to RFP 6: "training material, including training bulletins, for LAPD officers and/or personnel that refer to or relate to interactions with BID OFFICERS or any security officers or maintenance staff of any Business Improvement District."

Defendant previously responded to RFP 6 by stating that "LAPD does not have any training materials pertaining *specifically* to interactions with BID officers and employees of Business Improvement Districts." The City subsequently supplemented its responses by stating that the City is "unable to produce the same because no such documents are known to exist."

In light of the documents that have now been produced after the City indicated that no such documents existed, we are concerned that the City's search for such materials was, at best, incomplete. We expect that the City will conduct a more thorough search for such materials, and if the video does exist, we expect that the City will produce it immediately. If it does not exist, we expect that the City will inform us why it does not exist (either has been lost, destroyed or never existed).

Sincerely,

/s

Shayla Myers

**EXHIBIT F**

**Shayla R. Myers**

---

**From:** Shayla R. Myers  
**Sent:** Wednesday, March 16, 2016 9:23 AM  
**To:** 'Ronald Whitaker'  
**Cc:** Elizabeth Fitzgerald; catherine.sdshhh@gmail.com  
**Subject:** RE: LACW v. LADID

Mr. Whitaker,

As I mentioned in my email, our review of the documents indicates that only emails that were sent by/received by CCEA staff were included in the production.

Please confirm that the email searches were not limited to CCEA staff, either as the sender or the recipient.

We look forward to your responses.

Best,

Shayla

**From:** Ronald Whitaker [<mailto:ronald.whitaker@lacity.org>]  
**Sent:** Wednesday, March 16, 2016 9:00 AM  
**To:** Shayla R. Myers  
**Cc:** Elizabeth Fitzgerald; [catherine.sdshhh@gmail.com](mailto:catherine.sdshhh@gmail.com)  
**Subject:** Re: LACW v. LADID

Ms. Myers:

It was my understanding that the most recent search conducted by the City's IT department included the search terms your office had previously forwarded to me. I have already contacted IT this morning to confirm that this is the case and to answer the questions raised in your letter.

I am scheduled to appear before the City Council this morning but will contact you as soon as I hear back from the IT Department.

I can also confirm that Ms. Capri Maddox is available for her deposition on March 23rd. I am still awaiting dates of availability from Ms. Agnes Lung-Tam.

Ronn

On Tue, Mar 15, 2016 at 6:46 PM, Shayla R. Myers <[SMyers@lafla.org](mailto:SMyers@lafla.org)> wrote:

Attached please find correspondence regarding the City's production yesterday of responsive documents. Given the Court's deadlines, we would appreciate a response no later than noon tomorrow.

Best,

**Shayla R. Myers** | Staff Attorney  
**Legal Aid Foundation of Los Angeles**  
7000 S. Broadway | Los Angeles, CA 90003

213.640.3983 direct | 213.640.3988 facsimile

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--  
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Los Angeles, CA 90012  
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ronald.whitaker@lacity.org

**PLEASE NOTE NEW ADDRESS, TELEPHONE AND FACSIMILE NUMBERS**

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**EXHIBIT G**

Billing records of Shayla Myers

				on
01/12/2016	13-1229292 / CCEA Personal Property, Matter	TE	0.10	VM, and return call to Ronald Whitaker
01/22/2016	13-1229292 / CCEA Personal Property, Matter	TE	0.70	Call w/ OPC re: outstanding discovery and disco w/ Cathy re: same
01/22/2016	13-1229292 / CCEA Personal Property, Matter	TE	0.40	Draft email to City re: outstanding production
01/22/2016	13-1229292 / CCEA Personal Property, Matter	TE	0.30	Call w/ OPC (afternoon)
01/25/2016	13-1229292 / CCEA Personal Property, Matter	RS	0.80	Legal research re: disco sanctions
01/26/2016	13-1229292 / CCEA Personal Property, Matter	DR	0.90	Begin drafting ex parte application
01/26/2016	13-1229292 / CCEA Personal Property, Matter	RS	2.10	Legal research re: ex parte
01/27/2016	13-1229292 / CCEA Personal Property, Matter	DR	0.80	Draft meet and confer letter re: outstanding disco
01/27/2016	13-1229292 / CCEA Personal Property, Matter	DR	4.80	Draft ex parte motion re: discovery
01/28/2016	13-1229292 / CCEA Personal Property, Matter	MT	0.40	Disco w/ Cathy re: discovery strategy
01/28/2016	13-1229292 / CCEA Personal Property, Matter	DR	1.40	Draft motion re sanctions
01/28/2016	13-1229292 / CCEA Personal Property, Matter	TE	0.20	Call w/ Cathy and email to City re: same
01/29/2016	13-1229292 / CCEA Personal Property, Matter	TE	0.20	Call w/ cathy following up on disco conference
01/29/2016	13-1229292 / CCEA Personal Property, Matter	RA	0.60	Review emails and discovery in advance of teleconfernece
01/29/2016	13-1229292 / CCEA Personal Property, Matter	HG	0.50	Teleconference w/ Judge Wistrich re: city's discovery
02/01/2016	13-1229292 / CCEA Personal Property, Matter	DR	0.30	Draft letter to City re: outstanding discovery
02/01/2016	13-1229292 / CCEA Personal Property, Matter	DR	0.30	Review, edit letter re: hearing
02/02/2016	13-1229292 / CCEA Personal Property, Matter	DR	0.20	Draft letter to City re: outstanding production
02/04/2016	13-1229292 / CCEA Personal Property, Matter	DR	0.40	Revise, send letter to city re: outstanding discovery

02/11/2016	13-1229292 / CCEA Personal Property, Matter	TE	0.20	Draft email to OPC re: outstanding discovery, search terms
02/11/2016	13-1229292 / CCEA Personal Property, Matter	MT	0.20	Disco w/ OPC re: outstanding discovery
02/12/2016	13-1229292 / CCEA Personal Property, Matter	DR	0.80	Draft letter to RW re: outstanding discovery
02/12/2016	13-1229292 / CCEA Personal Property, Matter	DR	1.10	Review correspondence and draft declaration re: ex parte
02/15/2016	13-1229292 / CCEA Personal Property, Matter	DR	0.40	Draft declaration in support of ex parte motion
02/15/2016	13-1229292 / CCEA Personal Property, Matter	DR	5.40	Draft ex parte aplicaiton
02/15/2016	13-1229292 / CCEA Personal Property, Matter	DR	0.80	Review Cathy's edits and edit motion for sanctions
02/15/2016	13-1229292 / CCEA Personal Property, Matter	RS	0.80	Legal research re: contempt sanctions
02/15/2016	13-1229292 / CCEA Personal Property, Matter	TE	0.10	Call w/ catherine re: strategy
02/16/2016	13-1229292 / CCEA Personal Property, Matter	DR	1.40	Draft declaration
02/15/2016	13-1229292 / CCEA Personal Property, Matter	TE	0.20	Call w/ catherine re: ex parte strategy
02/16/2016	13-1229292 / CCEA Personal Property, Matter	DR	0.20	Calculate attorneys fees
02/17/2016	13-1229292 / CCEA Personal Property, Matter	DR	0.20	Draft proposed order
02/17/2016	13-1229292 / CCEA Personal Property, Matter	DR	0.20	Draft declaration of Catherine Sweetser
02/17/2016	13-1229292 / CCEA Personal Property, Matter	DR	0.70	revise declaration and draft ex parte based on 2/16/2016 meet and confer
<b>TOTAL</b>			<b>28.10</b>	<b>14752.5</b>



**EXHIBIT H**

## Billing Records, Shayla Myers

Date	Task	Time	Description
02/17/2016	RA	0.30	Review City's opposition and disco w/ Cathy re: same
02/18/2016	DR	0.70	Draft letter to City re: production and disco w/ JN re: same
02/19/2016	TE	0.20	Call w/ Ronn Whitaker and emails re: same
02/21/2016	PP	1.20	Prepare for IT deposition
02/22/2016	PP	1.80	Prepare for City PMK (LAPD IT dept)
02/22/2016	MT	0.40	Meet w/ Joseph Ricks re: deposition
02/22/2016	DI	3.60	Deposition of Leshon Frierson
02/22/2016	TE	0.40	Call w/ co-co re: depositions
02/22/2016	DR	0.80	Draft supplemental declaration
02/23/2016	MT	0.30	Meet and confer w/ Whitaker re: disco motion
02/23/2016	DR	0.80	Edits and finalize declaration in support of contempt motion
02/23/2016	TE	0.20	Meet and confer call w/ Ronn Whitaker re: outstanding disco
02/23/2016	RA	0.40	Review rough transcript from PMK for discovery motion
02/24/2016	DR	0.30	Draft email to Whitaker re: outstanding discovery
02/24/2016	PP	0.40	Strategize re: schedule, review ex parte and related documents
02/24/2016	TE	0.20	Draft email re: stipulation
02/25/2016	MT	0.40	Disco of stip w/ FG, co-co
02/25/2016	RA	0.30	Review draft stip from CLA
02/25/2016	DR	2.30	Draft revised stipulation for continuance
02/25/2016	RA	0.80	Review search terms and email whitaker re: same
02/26/2016	DR	0.40	Review edits and disco w/ co-co re: stip
02/26/2016	TE	0.40	Call w/ Cathy re: next steps
02/26/2016	TE	0.10	Draft email to OPC re: stipulation
02/26/2016	DR	1.20	Draft/revise stipulation for a continuance
02/26/2016	TE	0.30	Call w/ Ronn Whitaker re: discovery
02/26/2016	TE	0.10	Call w/ Elissa Gysi re: depo of Estella Lopez
02/26/2016	DR	0.30	Review, finalize stip and email/call re: same
02/26/2016	TE	0.10	Email w/ OPC re; Lopez deposition
03/03/2016	DR	0.40	Draft meet and confer letter re: outstanding discovery
03/04/2016	PP	0.80	Plan/prepare for Oreb deposition (discovery)
03/07/2016	TE	0.40	Vm and return call to Cathy re: case strategy
03/08/2016	MT	0.30	Meet and confer w/ Ron Whitaker following deposition
03/09/2016	DR	0.20	Draft email to City re: discovery responses
03/15/2016	RA	2.60	Review emails produced by CLA for completeness
03/15/2016	MT	0.10	Disco w/ PJE after meeting re; document production
03/15/2016	MT	0.40	Mtg w/ Catherine S. re: outstanding discovery, reply brief

03/15/2016	TE	0.10	Email w/ OPC re: reschedulign Estela Lopez deposition
03/15/2016	MT	0.30	Mtg w/ lit team to strategize document review
03/16/2016	DR	0.90	Draft declaration and prepare exhibits
03/16/2016	DR	0.70	Calculate fees and costs and prepare fees portion of declaration
03/16/2016	DR	0.40	Edits to motion and prepare for filing
03/16/2016	DR	0.10	review declaration
03/16/2016	TE	0.10	Review and respond to City Attorney's email re: email production
03/16/2016	DR	3.40	Draft reply brief
<b>TOTAL</b>		<b>29.90</b>	<b>15,697.50</b>

**EXHIBIT I**

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. 14-CV-02639-RGK (AJWx) Date October 28, 2015

Title United States of America et al. v. Shu-Hwa Baran et al.

Present: The Honorable R. GARY KLAUSNER, U.S. DISTRICT JUDGE

Sharon L. Williams (Not Present) Not Reported N/A

Deputy Clerk Court Reporter / Recorder Tape No.

Attorneys Present for Plaintiffs: Attorneys Present for Defendants:

Not Present Not Present

Proceedings: (IN CHAMBERS) Order re: Plaintiff's Motion for Attorney Fees (DE 40)

**I. INTRODUCTION & FACTUAL BACKGROUND**

On January 5, 2015, Christopher Harrison ("Plaintiff"), individually and on behalf of the United States of America, filed a First Amended Complaint ("FAC") against Shu-Hwa Baran ("Defendant"), alleging the following claims: (1) violation of False Claims Act (31 U.S.C. § 3729 *et seq.*) ("FCA"); (2) retaliation (California Civil Code § 1942.5); and (3) intentional infliction of emotional distress. Plaintiff voluntarily dismissed his claim for intentional infliction of emotional distress in his Motion for Default Judgment.

Defendant failed to file an Answer and the clerk entered default against her on April 1, 2015. On July 15, 2015, Plaintiff filed a Motion for Default Judgment. On August 28, 2015, the Court granted Plaintiff's Motion for Default Judgment and awarded the following: (1) \$608,407.00 to the United States Government for damages and civil penalties; (2) Plaintiff's 27% qui tam share of the proceeds; (3) \$6,000.00 in punitive damages to Plaintiff for retaliation; and (4) reasonable attorneys' fees and costs.

Presently before the Court is Plaintiff's unopposed Motion for Attorneys' Fees ("Motion"). For the following reasons, the Court GRANTS Plaintiff's Motion.

**II. JUDICIAL STANDARD**

In the United States, a prevailing litigant ordinarily may not collect attorneys' fees from the losing party. *Alyeska Pipeline Serv. Co. v. Wilderness Soc'y*, 421 U.S. 240, 247 (1975). District courts, however, may award attorneys' fees when an applicable statute includes a fee-shifting provision. *U.S. v. Standard Oil Co. of Cal.*, 603 F.2d 100, 103 (9th Cir. 1979).

For FCA actions, courts may award "reasonable attorneys' fees and costs" to a plaintiff who brings an FCA action on behalf of the United States. 31 U.S.C. § 3730(d)(2). For retaliatory eviction

After a party has shown that attorneys’ fees are warranted, the court determines the reasonable fee award by calculating the Lodestar amount. *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983); *Morales v. City of San Rafael*, 96 F.3d 359, 363 (9th Cir. 1996). Under the Lodestar method, the number of hours reasonably expended in litigation are multiplied by a reasonable hourly rate to produce the reasonable fee award. *Morales*, 96 F.3d at 363. The fee applicant bears the burden of substantiating the hours worked and the rates claimed. *Hensley*, 461 U.S. at 433.

### III. DISCUSSION

Plaintiff contends that he is entitled to \$90,182.50 in attorneys’ fees incurred for the services of Shayla Myers (“Myers”) and Anna Levine-Gronningsater (“Gronningsater”) of the Legal Aid Foundation of Los Angeles.

As an initial matter, the Court notes that there are two discrepancies in Plaintiff’s Motion. First, Plaintiff states that after an initial reduction, Myers and Gronningsater are now claiming 253.6 billable hours. (Pl.’s Mot. at 3.) However, the Court reviewed Plaintiff’s timekeeping records and found that Plaintiff’s counsel only billed for 252 hours. (Pl.’s Mot., Gronningsater Decl., Ex. E, G.) Second, Plaintiff requests \$90,182.50 in attorneys’ fees. After a thorough review of Plaintiff’s timekeeping records, the Court found that on two separate occasions, Plaintiff’s counsel billed zero hours, but nevertheless charged for their services.<sup>1</sup> (*Id.* at Ex. E.) As such, the Court finds it proper to deduct the \$395.00 in overcharged fees, resulting in a total of \$89,787.50 in requested attorneys’ fees.

#### A. Reasonable Hourly Rate

The first component of the Lodestar analysis is the prevailing market rate for the work done. “The established standard when determining a reasonable hourly rate is the rate prevailing in the community for similar work performed by attorneys of comparable skill, experience, and reputation.” *Camacho v. Bridgeport Fin., Inc.*, 523 F.3d 973, 979 (9th Cir. 2008) (internal quotation marks omitted). Where a purported market fee rate is uncontested by the opposing party, the district court is required to presume that rate reasonable. *U.S. v. \$28,000.00 In U.S. Currency*, No. 13-55266, 2015 WL 5806325, —F.3d— (9th Cir. Oct. 6, 2015). Affidavits of the moving party’s attorney and other attorneys regarding prevailing fees in the community, and rate determinations in other cases, are satisfactory evidence of the prevailing market rate. *Camacho*, 523 F.3d at 980.

Plaintiff requests the following rates: (1) \$450.00/hour for Myers and (2) \$325.00/hour for Gronningsater. Plaintiff provided the detailed declaration of Barrett S. Litt (“Litt”), a prominent civil rights attorney in Los Angeles and an expert in billing rates. (Pl.’s Mot., Litt Decl. ¶¶ 2-8.) According to Litt, civil rights attorneys with comparable experience to Myers have received Lodestar awards ranging from \$454.00/hour on the low end to \$610.00/hour on the high end.<sup>2</sup> (*Id.* at ¶¶ 28-29.) Civil rights attorneys with comparable experience to Gronningsater obtained awards ranging from \$361.00/hour to \$478.00/hour. (*Id.*) While these rates are based on documented court awards in civil rights cases, and

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<sup>1</sup>On August 18, 2014, Myers charged \$135.00 for 0.00 units of work. On December 4, 2014, Gronningsater charged \$260.00 for 0.0 units of work. (Pl.’s Mot., Gronningsater Decl., Ex. E.)

<sup>2</sup>Litt applied an adjustment factor of 3.24% per annum for inflation to all hourly rate comparisons.

In light of the evidence presented, and the presumption afforded to Plaintiff in the absence of an opposition, the Court finds that Plaintiff's requested hourly rates for Myers and Gronningsater are reasonable.

**B. Number of Hours Reasonably Expended**

Next, the Court considers the number of hours that the fee applicant reasonably expended. "The fee applicant bears the burden of documenting the appropriate hours expended in the litigation and must submit evidence in support of those hours worked." *Gates v. Deukmejian*, 987 F.2d 1392, 1397 (9th Cir. 1992). The district court should exclude from this initial fee calculation hours that were not reasonably expended; i.e., hours that are excessive, redundant, or otherwise unnecessary. *Hensley*, 461 U.S. at 434.

Plaintiff asserts that he initially incurred \$112,627.50 in attorneys' fees for 320.2 hours. However, after exercising their billing judgment, Plaintiff's counsel reduced the number of hours requested by: (1) seeking fees for only the two lead attorneys in the case; (2) excluding billable hours that could have been performed by a paralegal; and (3) excluding compensation for any travel time. (Pl.'s Mot. at 7, 16.) After this initial reduction, which resulted in the exclusion of 68.2 billable hours, Plaintiff now seeks to recover \$89,787.50 in attorneys' fees for a total of 252 hours.<sup>4</sup>

To support these hours, Plaintiff has submitted Gronningsater's declaration, along with timekeeping records, which identify the subject matter of each task and the precise time spent by each advocate. (Pl.'s Mot., Gronningsater Decl., Ex. D, E, G.) The expended hours can be divided into six discrete tasks, each of which is discussed below.

Upon careful review of the evidence, the Court finds that time may have been unreasonably expended. As such, the Court will exercise discretion regarding the reasonable-hour determination.

1. *Pre-Filing Investigation and Drafting the Original Complaint- 29.3 Hours*

Plaintiff spent approximately 35 hours investigating the claims, conducting extensive legal research into potential causes of action, the interaction between the City's Rent Stabilization Ordinance, Section 8, and the FCA, and drafting the complaint. (Pl.'s Mot., Gronningsater Decl., Ex. E.) This included research into the procedural requirements for filing the complaint, since filing an FCA claim has rare and specific procedural requirements. Plaintiff exercised billing discretion and reduced the amount of time spent on these tasks to **29.3 hours**. The Court finds that the number of hours expended on these tasks is reasonable.

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<sup>3</sup>Attorneys in commercial cases with comparable experience to Myers received \$470.00-760.00/hour, while attorneys with comparable experience to Gronningsater received \$481.00-572.00/hour. (Pl.'s Mot., Litt Decl. ¶ 29.)

<sup>4</sup>Although Plaintiff's Motion seeks recovery for \$90,182.50 for 253.6 hours, the Court, as discussed above, found errors in Plaintiff's calculations and adjusted the value accordingly.

2. Department of Justice Investigation and Relator Interview- 25.2 Hours

The FCA requires significant pre-filing procedural requirements, including preparation of a disclosure statement. Following the filing of the complaint and receipt of the disclosure statement, the United States Attorney frequently requests an interview with the relator. Plaintiff's counsel spent approximately 28 hours fulfilling the FCA's procedural requirements. (Pl.'s Mot., Gronningsater Decl., Ex. E.) This includes preparing the disclosure statement and preparing for and attending the relator interview. Plaintiff deducted 8.4% of these billable hours, resulting in a total of **25.2 hours**. The Court finds that the number of hours expended on these tasks is reasonable.

3. Amending the Complaint- 58.9 Hours

After Defendant did not respond to Plaintiff's initial complaint, Plaintiff spent approximately 68.6 hours amending the complaint, which included additional factual and legal research and drafting the FAC. (Pl.'s Mot., Gronningsater Decl., Ex. E.) Plaintiff's counsel has reduced this amount to 58.9 hours, and contends that the time expended is reasonable in light of the complex nature of the FCA. The Court disagrees.

Plaintiff's counsel spent approximately 11.6 hours drafting the original complaint. (*Id.*) Plaintiff's counsel then expended an additional 19.6 hours drafting and reviewing the FAC, which included causes of action only for a violation of the FCA, retaliation, and intentional infliction of emotional distress, all of which were already included in the original complaint. (*Id.*) Further, Plaintiff's counsel spent 13.8 hours solely on intra-office meetings, discussions, and telephone calls regarding amending the complaint. These numbers are excessive and redundant, and therefore, the Court will credit Plaintiff's counsel for **39 hours**.

4. Service of the Complaint- 46.3 Hours

Plaintiff's counsel claims that they expended 67 hours and considerable resources in order to serve the complaint and FAC on Defendant. (Pl.'s Mot., Gronningsater Decl., Ex. E.) Since Defendant attempted to avoid service, this included conducting significant factual investigation to locate Defendant, researching all methods of service in both state and federal court, and drafting declarations to support the efforts to serve Defendant. Plaintiff's counsel also had to prepare and file an application for an extension of time to serve Defendant. After exercising billing discretion, Plaintiff's counsel now seeks to recover fees for 46.3 hours.

A review of Plaintiff's timekeeping records revealed that Plaintiff's counsel expended approximately 25.8 hours and charged \$8,610.00 for time spent researching service of the complaint. (*Id.*) In addition, they spent 11.9 hours, for a total amount of \$3,879.00, on drafting and reviewing a 10 page ex parte application requesting extension of time to serve the summons and complaint on Defendant. (*Id.*) Four pages of that application were composed of Gronningsater's declaration, which contained, for the most part, a bullet point recitation of Plaintiff's attempts to serve Defendant. (Pl.'s Appl., DE 13.) The Court does not accept that two attorneys with 10 years of legal experience between them would require, as Plaintiff asserts, more than 35 hours to research proper service and draft an application. Therefore, the Court finds that the hours expended on these tasks are unreasonable, and will credit Myers and Gronningsater for **15 hours**.

5. Requesting Default and Default Judgment- 56.0 Hours

Plaintiff's counsel initially spent 82 hours requesting entry of default and researching and drafting the Motion for Default Judgment. (Pl.'s Mot., Gronningsater Decl., Ex. E.) Plaintiff's counsel claims that this amount is reasonable because the FCA involves complex questions of law and they had



to demonstrate the sufficiency of Plaintiff's claim under various potential theories of liability. In addition, they expended considerable hours researching the proper measure of damages under the FCA. After reducing the time expended on these tasks by 32%, Plaintiff's counsel seeks an award of fees for 56 hours.

The Court reviewed the timekeeping records and found that Plaintiff's counsel spent 37.2 hours alone on researching and drafting the Motion for Default Judgment. (*Id.*) The Court finds this amount to be unreasonable and will, therefore, credit Myers and Gronningsater for 25 hours spent on requesting default and default judgment.

6. Motion for Attorneys' Fees ("Fees on Fees")- 36.30 Hours

Plaintiff seeks \$13,922.50 for 36.30 hours of time spent researching and drafting the present Motion. The Court finds that the total hours spent on the present Motion is unreasonable, and credits Plaintiff's counsel for 15 hours.

In light of the evidence presented, the Court finds that Plaintiff's counsel reasonably expended a total of 148.5 hours in this action. The Court adjusted Myers and Gronningsater's hours in proportion to their respective portions of the original 252 hours claimed.

C. Calculation of Lodestar Figure

Based on the foregoing, the Court awards Plaintiff attorneys' fees as follows:

Attorney	Rate	Hours	Total
Anna Levine-Gronningsater	\$325.00	111.4	\$36,205.00
Shayla Myers	\$450.00	37.1	\$16,695.00
<b>Total:</b>		<b>148.5</b>	<b>\$52,900.00</b>

IV. CONCLUSION

For the foregoing reasons, the Court GRANTS Plaintiff's Motion and awards Plaintiff attorneys' fees in the amount of \$52,900.00.

IT IS SO ORDERED.

\_\_\_\_\_  
Initials of Preparer  
\_\_\_\_\_

**EXHIBIT J**

1 BRYAN SCHWARTZ LAW  
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12 [Additional counsel on following page]  
13 *Attorneys for Individual and Representative  
Plaintiffs and the Class*

14  
15 **UNITED STATES DISTRICT COURT**  
16 **CENTRAL DISTRICT OF CALIFORNIA – SOUTHERN DIVISION**

17 Terry P. Boyd, Ethel Joann Parks, Sonia  
Medina, Linda Zanko, and Victor Galaz,  
18 individually, and on behalf of others  
19 similarly situated,

20 Plaintiffs,

21 vs.

22  
23 Bank of America Corp.; LandSafe, Inc.;  
LandSafe Appraisal Services, Inc.; and  
24 DOES 1 to 10, inclusive,

25 Defendants.  
26

CASE NO. SACV13-00561-DOC  
(JPRx)

**DECLARATION OF WILMER J.  
HARRIS IN SUPPORT OF  
PLAINTIFFS’ MOTION FOR  
ATTORNEY’S FEES AND  
COSTS**

Date: January 11, 2016  
Time: 8:30 a.m.  
Courtroom: 9D

Hon. David O. Carter

1 SCHONBRUN SEPLOW  
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*Attorneys for Individual and Representative*  
10 *Plaintiffs and the Class*

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1 I, Wilmer J. Harris, declare as follows:

2 1. I am an attorney-at-law and a partner with the firm Schonbrun Seplow  
3 Harris & Hoffman LLP (“SSHH”) and am counsel of record for plaintiffs in the  
4 instant action. The facts set forth in this declaration are true and of my own  
5 personal knowledge, and I have firsthand knowledge of them. If called as a witness,  
6 I could and would testify competently under oath to the facts set forth herein.

7 2. I am a member of the State Bar of California and am admitted to  
8 practice before this court.

9 3. This declaration is submitted in support of Plaintiffs’ Motion for  
10 Attorneys’ Fees and Costs.

11 4. Attached hereto and marked as **Exhibit A** is a true and correct copy of  
12 the Settlement Agreement, as to which the Court granted Preliminary Approval on  
13 September 28, 2015. (ECF No. 371).

14 5. Attached hereto and marked as **Exhibit B** is a true and correct copy of  
15 relevant portions of the September 28, 2015 Preliminary Approval Hearing  
16 Transcript.

17 **QUALIFICATIONS OF SSHH AND SSHH ATTORNEYS**

18 6. I graduated from Stanford University in 1986 with an A.B. degree in  
19 Economics, with Distinction, and Honors in Humanities. I was elected to  
20 membership in Phi Beta Kappa in 1985. I graduated from UCLA School of Law in  
21 1990, earning Order of the Coif honors and American Jurisprudence Awards in  
22 Evidence, Moot Court and Remedies. I worked as Law Clerk to the Honorable  
23 David W. Williams for one year after my law school graduation. I entered private  
24 practice thereafter, practicing business litigation for two years with the law firms  
25 Kaye, Scholer, Fierman, Hays & Handler and Blanc, Williams, Johnston &  
26 Kronstadt. In January 1994, I joined the Law Offices of Johnnie L. Cochran, Jr.  
27 My practice area changed dramatically as I began representing clients in civil rights  
28

1 cases, including Reginald Denny. In August 1995, I joined my current firm (named  
2 Schonbrun De Simone Seplow Harris & Hoffman in 1999), where I have  
3 concentrated primarily on the representation of employees in disputes with  
4 employers and individuals in civil rights cases. In November 1999, I opened the  
5 Pasadena office of the firm where I remain the resident partner. I have garnered  
6 several settlements in excess of \$1 million in civil rights and employment cases. In  
7 July 2004, my client recovered a \$1.6 million judgment (including attorney's fees  
8 and costs) against Boeing Satellite Systems. In August 2006, my client received a  
9 judgment of over \$1.7 million (including fees and costs).

10 7. I have given employment law presentations at seminars for the Los  
11 Angeles County Bar Association, the State Bar Labor & Employment Section and  
12 the American Bar Association. In February 2003, I was one of the speakers at the  
13 Los Angeles County Bar Association Nuts and Bolts Seminars regarding  
14 employment law. In November 2004, I spoke at the California State Bar Labor &  
15 Employment Section's Annual Conference. In 2005, I was selected to sit on the  
16 California State Bar Labor & Employment Executive Committee. I presented at the  
17 California Employment Lawyers Association ("CELA") Annual Conference in  
18 September 2006 and October 2010. I also presented at the Los Angeles County Bar  
19 Association Dinner meeting in November 15, 2006. I spoke at the American Bar  
20 Association Annual Conference in San Francisco in August 2007. After joining the  
21 Labor & Employment Executive Committee, I regularly spoke at our Annual  
22 Conferences. I was one of two attorneys who summarized the developments in  
23 California employment law in 2007 at the 2008 Los Angeles County Bar Annual  
24 Symposium and presented at the 30th Annual Labor and Employment Law  
25 Symposium in March 2010. I regularly presented and/or moderated at California  
26 State Bar Labor and Employment Section conferences and was one of the speakers  
27 presenting the Wage & Hour Update in September 2010. In my capacity as Chair of  
28

1 the California State Bar Labor and Employment Section, I co-chaired the Section's  
2 inaugural Wage and Hour Conference in August 2011.

3 8. I am an active member of various professional organizations, including  
4 the California Employment Lawyers Association (CELA). I am also a member of  
5 the National Employment Lawyers Association (NELA), the Consumer Attorney's  
6 Association of Los Angeles (CAALA), the Los Angeles County Bar Association  
7 and its Labor & Employment Section and the John M. Langston Bar Association. I  
8 have been selected as a "Southern California Super Lawyer" by Los Angeles  
9 Magazine for several years. I served as Chair of the California State Bar Labor &  
10 Employment Section for the 2010-2011 year.

11 9. I have previously been counsel for other class action suits which  
12 reached settlements, including *Petzold v. Metrocities Mortgage LLC et al*, BC  
13 365594 (Los Angeles Superior Court); *Madrigal v. Tommy Bahama, et al*, CV 09-  
14 08924 SJO (CWx) [United States District Court, Central District of California];  
15 *Manukyan v. Regis Corporation*, CV09-04807 MMM (FFMx) [United States  
16 District Court, Central District of California], related to *Bonilla v. Regis Corp.*, 30-  
17 2009-00329724 [Orange County Superior Court]; and *Sengupta v. City of Monrovia*,  
18 CV 09-0795 ABC (SJHx) [United States District Court, Central District of  
19 California]. I am currently working on two additional putative and/or certified class  
20 action cases: *Bowen v. ProCare Mobile Response, LLC*, BC 555982 [Los Angeles  
21 Superior Court]; and *Elijahjuan et al. v. Mike Campbell & Associates, Ltd., et al.*,  
22 BC 441598 [Los Angeles Superior Court]. In 2012, my clients successfully  
23 appealed the grant of a motion to compel arbitration in *Elijahjuan*, which resulted in  
24 a published decision, *Elijahjuan v. Superior Court*, 210 Cal. App. 4th 15 (2012).

25 10. My current hourly rate is \$760 per hour.

26 11. My colleague and senior partner at SSHH, Benjamin Schonbrun, is also  
27 class counsel in this matter. Mr. Schonbrun graduated from law school in 1983 and  
28

1 was admitted to the California Bar in 1985. Since admission to the California State  
2 Bar, he has been in continuous practice for approximately 29 years and has  
3 extensive experience litigating employment and civil rights matters, including class  
4 action cases. He has been selected as a “Super Lawyer” by Los Angeles Magazine  
5 for the last several years.

6 12. Mr. Schonbrun was lead counsel in *Lita v. Bunim/Murray Productions*,  
7 BC350590 [Los Angeles Superior Court], a wage and hour class action brought on  
8 behalf of all non-exempt employees of defendant Bunim-Murray Productions. Mr.  
9 Schonbrun, along with Mr. Seplow and myself, was counsel to a Los Angeles  
10 resident who was mentally disabled and was wrongfully imprisoned in New York  
11 State for two years (*Sanders Lee v. New York State Dept of Correctional Services*,  
12 et al.). The case resulted in a published decision (*Lee v. City of Los Angeles*, 250  
13 F.3d 668 (9th Cir. 2001) and a total settlement in excess of \$3.75 million.

14 13. Mr. Schonbrun has also been active in the case of *Maynas Carijano v.*  
15 *Occidental Petroleum*, Case No. 07-5068 PSG, in which our firm is one of several  
16 counsel representing residents of a remote area of Peru who are suing for  
17 environmental contamination to their native land. Our firm was part of a team of  
18 lawyers who worked on a successful appeal before the Ninth Circuit Court of  
19 Appeals, which reversed the District Court's dismissal of the action based on the  
20 doctrine forum non-conveniens. (*Maynas Carijano v. Occidental Petroleum Corp.*,  
21 643 F.3d 1216 (9th Cir. 2011)).

22 14. Mr. Schonbrun’s current hourly rate is \$790 per hour.

23 15. My colleague and class counsel, Michael Seplow, is also a partner at  
24 SSHH. Mr. Seplow graduated Magna Cum Laude from Duke University in 1985,  
25 with an A.B. degree, where his major was in Public Policy Studies. He received his  
26 J.D. degree from UCLA School of Law in 1990. During law school, he served as an  
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1 extern for the Honorable Abner J. Mikva on the United States Court of Appeals for  
2 the District of Columbia Circuit.

3 16. Mr. Seplow was admitted to the California Bar in 1990 and in or about  
4 October 1990, he began working as an associate practicing business litigation with  
5 the law firm of Blanc, Williams, Johnston & Kronstadt in Century City. In January  
6 1992, he joined SSHH (then Schonbrun & DeSimone LLP), where he has practiced  
7 civil rights and employment law on behalf of individuals and employees.

8 17. While at SSHH, Mr. Seplow has had an active role in numerous  
9 successful civil rights and employment cases, including trying several cases. For  
10 example, he represented a plaintiff who won a jury verdict in August 2005 against  
11 the County of Orange in a federal civil rights/employment case (*Orange v. County*  
12 *of Orange*, CV-03-6147 CAS [United States District Court, Central District of  
13 California]. He was also lead counsel in *Jenkins v. Daniel Murphy Catholic High*  
14 *School*, CV-05-0623 SAL [United States District Court, Central District of  
15 California], in which the district court granted summary judgment in favor of his  
16 client and held as a matter of law that the defendant employer had violated the  
17 Americans With Disabilities Act.

18 18. Mr. Seplow has also been counsel of record in several employment  
19 class action cases which resulted in class-wide settlements, including *Shoff et al v.*  
20 *AT&T et al*, Case No: CV 07-3289 DSF (AGRx) [United States District Court,  
21 Central District of California]; *Doyle et al. v. AT&T et al.*, Case No. 08 CV 1275  
22 JAR WMC [United States District Court, Southern District of California]; *Lita v.*  
23 *Bunim-Murray Productions, et al.*, Case No. BC 350590 [Los Angeles Superior  
24 Court]; *Henderson v Raytheon*, Case No. BC 381868 350590 [Los Angeles  
25 Superior Court]; *Waters v. AT&T Services*, Case No: CV 09-3983 BZ [United States  
26 District Court, Northern District of California]; and *Todorova v DLP Investments*,  
27 Case No.: 1382928 [Santa Barbara Superior Court] (along with Mr. Schonbrun).

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DECLARATION OF WILMER J. HARRIS IN SUPPORT OF PLAINTIFFS' MOTION FOR ATTORNEY'S

FEES

1           19. Mr. Seplow is also a member of various professional organizations,  
2 including CELA, CAALA, the Los Angeles County Bar Association and the Labor  
3 & Employment Section of the State Bar of California. In addition, he has also  
4 spoken at MCLE events on civil rights and employment law. He has been selected  
5 as a “Southern California Super Lawyer” by Los Angeles Magazine for several  
6 years.

7           20. Mr. Seplow’s current hourly rate is \$760 per hour.

8           21. Our firm, Mr. Schonbrun, Mr. Seplow and I have extensive experience  
9 litigating employment and civil rights cases throughout California. We currently  
10 have approximately twenty (20) putative and/or certified class actions in various  
11 stages of litigation, in addition to the numerous class actions we have litigated over  
12 the years. Three class actions in the recent past have resulted in eight-figure  
13 settlements: \$10,500,000 (*Doyle et. al. v. AT&T et. al.*, Case No. CV 08-1275-JAH  
14 (S.D. Cal. Mar. 1, 2010), \$17,000,000 (*Waters, Turner and Fajardo, et al v. AT&T*  
15 *Services, Inc.*, Case No. 3:09-CV-03983 BZ), and \$16,000,000 (*Shoff, et al. v.*  
16 *AT&T, et al.*, Case No. CV 07 3289 DSF (AGRX) [United States District Court,  
17 Central District of California].

18           22. Other class actions cases in which our firm has been involved in the  
19 recent past have resulted in the following settlements: \$5,000,000.00, *Lita v. Bunim-*  
20 *Murray*, Case No. BC 350590 [Superior Court of Los Angeles, Central Civil West];  
21 \$1,500,000.00, *Fontana v. St. Joseph Hospital of Orange*, Case No. 03CC02559  
22 [Orange County Superior Court, Civil Complex Center]; \$4,100,000.00, *Manukyan*  
23 *v. Regis Corporation*, CV09-04807 MMM (FFMx) [United States District Court,  
24 Central District of California], related to *Bonilla v. Regis Corp.*, 30-2009-00329724  
25 [Orange County Superior Court]; and \$2,350,000.00, *Petzold v. Metrocities*  
26 *Mortgage, LLC, et al.*, BC365594 [Los Angeles Superior Court]. We have also  
27 obtained final approval by courts for settlement in other recent class action cases,  
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1 including *Charlebots v. Angels Baseball, LP*, SACV 10-853 [United States District  
2 Court, Central District of California]; *Multi-Ethnic Immigrant Workers Organization*  
3 *Network et al., v. City of Los Angeles*, CV07-3072 [United States District Court,  
4 Central District of California]; *Rodriguez v. Roto-Rooter Corp., et al.*, BC446008  
5 [Los Angeles Superior Court]; *Cinquergrani v. Dept. of Motor Vehicles*, BC355720  
6 [Los Angeles Superior Court]; and *Todorova v. DPI Investments, Inc., et al.*,  
7 1382928 [Santa Barbara Superior Court].

8       23. Our firm has actively commenced, prosecuted and concluded numerous  
9 other class actions and other complex cases. Our firm was a member of the steering  
10 committee for the Plaintiffs' side in the coordinated action *The Clergy Cases*  
11 (*Clergy I*), Case No. JCCP 4286, which settled for over \$660 million dollars with  
12 the Archdiocese of Los Angeles for sexual abuse committed against minors by  
13 priests of the Los Angeles Archdiocese. Moreover, our firm was one of the lead  
14 counsel in a class action case against Magic Mountain for race and ethnic  
15 discrimination that settled for over \$5,000,000 (*Elizabeth Morrison, et al. v. Six*  
16 *Flags Theme Park, Inc., et al.*, Case No. BC 253314).

17       24. Our firm was also lead counsel on the groundbreaking case, *Doe, et al.*  
18 *v. Unocal Corp., et al.*, CV 96-6959-RSWL [United States District Court, Central  
19 District of California] in which Unocal was sued for human rights abuses committed  
20 during the construction of an oil pipeline in Myanmar. Currently, our firm is  
21 prosecuting complex putative and/or certified human rights class action cases  
22 including the *In re Apartheid Cases*, 02 Civ. 4712 [United States District Court,  
23 Southern District of New York], (suing companies who sponsored the Apartheid  
24 regime in South Africa) and *Doe I v. Nestle USA, Inc.*, 2:05-CV-05133-SVW  
25 [United States District Court, Central District of California]. These are just a  
26 sample of the many complex matters that we and our firm have litigated.

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1           25. Aidan McGlaze graduated from Yale University with a degree in  
2 English Language and Literature. Mr. McGlaze graduated from Stanford Law  
3 School in 2007 with a J.D. and was admitted to practice law in New York in 2009  
4 and in California in 2011.

5           26. Before joining the firm of SSHH in August 2012, Mr. McGlaze clerked  
6 for Judge Kim McLane Wardlaw on the United States Court of Appeals for the  
7 Ninth Circuit. Following his clerkship, Mr. McGlaze practiced business litigation at  
8 Quinn Emanuel Urquhart & Sullivan, LLP.

9           27. At SSHH, Mr. McGlaze's hourly rate is \$530 per hour.

10           28. Kari Haugen graduated from Whitman College with a degree in History  
11 and received her J.D. from Columbia Law School in 1988. Ms. Haugen began her  
12 practice in 1988 with O'Melvany & Myers in Los Angeles, California. In 1994, she  
13 joined the national labor and employment firm of Ford & Harrison, and became a  
14 partner in January 1997. Ms. Haugen has served as a senior employment counsel  
15 for Warner Bros. Entertainment and worked as an associate for Swerdlow Florence  
16 Sanchez Swerdlow & Wimmer. Ms. Haugen served as a contract attorney at SSHH  
17 from January 2015 through May 2015.

18           29. At SSHH, Ms. Haugen's hourly rate was \$760 per hour.

19           30. Shayla Myers graduated from Kenyon College with degrees in Political  
20 Science and German. Ms. Myers graduated from University of California, Los  
21 Angeles School of Law in 2008 with a J.D. and was admitted to practice law in  
22 California in 2009.

23           31. Before joining the firm of SSHH in August 2012, Ms. Myers clerked  
24 for the Honorable Sandra Segal Ikuta of the United States Court of Appeals for the  
25 Ninth Circuit. Following her clerkship, Ms. Myers was a Skadden Fellow at Bet  
26 Tzedek Legal Services. Ms. Myers currently works for the Legal Aid Foundation of  
27 Los Angeles.

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1           32. At SSHH, Ms. Myers's hourly rate was \$500 per hour.

2           33. Isabel Daniels graduated cum laude from Pomona College with a  
3 degree in Psychology. Ms. Daniels graduated magna cum laude from the University  
4 of Michigan Law School in 2009, earning Order of the Coif and was admitted to  
5 practice law in California in 2010.

6           34. Before joining the firm of SSHH in July 2014, Ms. Daniels clerked for  
7 the Honorable Cormac J. Carney of the Central District of California in 2009-2010.  
8 Following her clerkship, Ms. Daniels worked as an associate at Irell & Manell LLP  
9 in Los Angeles, where she handled a variety of complex intellectual property  
10 matters. Ms. Daniels then joined the firm of Berger & Montague, P.C. in  
11 Philadelphia where she practiced plaintiff-side antitrust and labor and employment  
12 law.

13           35. At SSHH, Ms. Daniels' hourly rate is \$480 per hour.

14           36. Raya Marinova graduated magna cum laude from the University of  
15 Southern California, with degrees in Music and International Relations. She  
16 graduated from Loyola Law School in 2012 with a J.D. where she was a staff  
17 member of Loyola International and Comparative Law Review. Ms. Marinova was  
18 admitted to practice law in California in 2012. She received an LL.M. in trial  
19 advocacy from California Western School of Law in 2014. Prior to joining SSHH  
20 in December 2014, Ms. Marinova was a fellow at the Office of the Federal Public  
21 Defender for the Central District from January 2014 until December 2014.

22           37. At SSHH, Ms. Marinova's hourly rate is \$420 per hour.

23           38. Sarah Meyabadi graduated from California State University, Long  
24 Beach with degrees in Political Science and Communications. Ms. Meyabadi  
25 graduated from Whittier Law School in 2008 with a J.D. Ms. Meyabadi joined  
26 SSHH as a Litigation Support Specialist in August 2010.

27           39. At SSHH, Ms. Meyabadi's hourly rate is \$275 per hour.

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1           40.   Shahane Martirosyan graduated from University of California, Los  
2 Angeles with a degree in Global Studies in 2009. Ms. Martirosyan graduated from  
3 University of Cincinnati College of Law in May 2013 with a J.D. and was admitted  
4 to practice law in California in 2013. Ms. Martirosyan served as Contract Attorney  
5 for SSHH from April 2014 through July 2014. Ms. Martirosyan is currently an  
6 associate at Arbolat Law PC.

7           41.   At SSHH, Ms. Martirosyan's hourly rate was \$375 per hour.

8           42.   Kristina Akopyan graduated from University of California at Irvine  
9 with degrees in Biology and History. Ms. Akopyan completed the Paralegal  
10 Program and received her ABA Approved Paralegal Certificate from University of  
11 California at Los Angeles Extension in 2004. She joined SSHH as a paralegal in  
12 2006.

13           43.   In 2012, Ms. Akopyan was certified by the National Association of  
14 Legal Assistants (NALA) and is currently an active member of the organization.

15           44.   At SSHH, Ms. Akopyan's hourly rate is \$200 per hour.

16           45.   William Clifton graduated from the University of New Hampshire with  
17 a degree in History in 1971. Mr. Clifton received his Paralegal Certificate from Los  
18 Angeles Valley College in 2008. In 2010, Mr. Clifton was certified by the National  
19 Association of Legal Assistant.

20           46.   At SSHH, Mr. Clifton's hourly rate is \$200 per hour.

21           47.   Emma Huang graduated from Pitzer College in 2011. She joined  
22 SSHH as a paralegal in 2012 and worked until August 2015.

23           48.   At SSHH, Ms. Huang's hourly rate was \$200 per hour.

24           49.   Kai Valenzuela graduated with a dual degree in Sociology and  
25 Chicana/o Studies, with minors in LGBT Studies, Public Policy and specialization  
26 in Urban Planning from the University of California, Los Angeles in December  
27 2006. Ms. Valenzuela obtained her Paralegal Certificate via attorney written  
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1 declaration as required by Business and Professions Code Section 6450 on May  
2 2012. Mr. Valenzuela has over 11 years of experience as a legal assistant/paralegal.

3 50. At SSHH, Ms. Valenzuela's hourly rate is \$200 per hour.

4 51. Sarah Bennett graduated with a degree in Sociology from Pepperdine  
5 University in April 2012. Ms. Bennett obtained her ABA Approved Paralegal  
6 Certificate from West Los Angeles College in December 2014. Prior to joining  
7 SSHH as a paralegal in February 2015, Ms. Bennett worked for the Law Office of  
8 Scott Pomerantz from March 2012 until January 2105.

9 52. At SSHH, Ms. Bennett's hourly rate is \$200 per hour.

10 **HISTORY OF LITIGATION**

11 53. I am fully familiar with the facts of this case as I have been one of the  
12 day-to-day attorneys on this case since joining as counsel of record in June 2013.

13 54. This matter was litigated extensively prior to achieving this settlement.

14 55. Plaintiffs filed their class action complaint on April 9, 2013.

15 56. Prior to joining the litigation, counsel worked on investigation of class  
16 claims, document review, research of issues presented and review of all pleadings  
17 and related documents filed in the matter.

18 57. Plaintiffs' counsel performed a substantial amount of other work in the  
19 case, which included substantial discovery and legal briefing.

20 58. In July, 2013, Plaintiffs filed a Motion for Conditional Certification  
21 under the FLSA, 29 U.S.C. § 216(b) and Partial Summary Judgement Motion. (ECF  
22 No. 44).

23 59. In November 2013, the parties mediated with renowned mediator  
24 David Rotman. Although the mediation failed, the parties continued communicating  
25 regarding settlement.

26 60. On January 13, 2014, Plaintiffs moved for Class Certification of the  
27 proposed California Class. (ECF No. 118).

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DECLARATION OF WILMER J. HARRIS IN SUPPORT OF PLAINTIFFS' MOTION FOR ATTORNEY'S

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1           61. On January 29, 2014, the parties attended a second mediation with  
2 Mark Rudy, for which significant additional briefing was prepared. Although the  
3 parties did not settle, they continued to negotiate with Mr. Rudy and on February 25,  
4 2014, finalized a Memorandum of Understanding to settle the Review Appraisers'  
5 claims only. On November 18, 2014, the Court ordered final approval of the  
6 settlement of the Review Appraisers' claims. (ECF No. 276).

7           62. In the interim, Plaintiffs' counsel continued to litigate on behalf of the  
8 remaining Staff Appraiser Class.

9           63. On June 27, 2014, the Court granted Plaintiffs' Motion for Class  
10 Certification as to Staff Appraisers.

11           64. On May 6, 2015, after the matter had been fully briefed and argued, the  
12 Court granted Plaintiffs' Motion for Partial Summary Judgment and denied  
13 Defendants' cross Motion for Summary Judgment as to Staff Appraisers. (ECF No.  
14 307).

15           65. On June 15, 2015, Defendants filed a Motion to Decertify the  
16 California Meal and Rest Period Class and a Motion to Certify an Interlocutory  
17 Appeal under Section 1292(b). Plaintiffs filed their oppositions on July 13, 2015.

18           66. Throughout this period, the Plaintiffs' counsel continued to conduct  
19 extensive discovery and prepare for trial.

20           67. In addition to the work described above, Plaintiffs' counsel worked  
21 extensively with our retained experts, Dr. Brian Kriegler and Dr. Jessica Broom of  
22 EconOne, as well as with Defendants and their retained experts and a third party  
23 survey company, Russell Research, to draft and administer an anonymous survey to  
24 real estate appraisers to determine the average time it takes to complete various  
25 appraisals that Landsafe appraiser did. Plaintiffs' counsel worked closely with Dr.  
26 Kreigler, who conducted an extensive analysis of the projected damages for the  
27 class and who authored an extensive Rule 26 report which calculated the range of  
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1 potential damages to a 95 percent confidence interval. Plaintiffs' counsel has  
2 worked closely with Dr. Kriegler to formulate and implement the settlement formula  
3 used to calculate each class member's settlement share.

4 68. The parties engaged in document discovery, exchanging over 200,000  
5 pages of relevant materials. Plaintiffs took the deposition of Defendants' FRCP  
6 30(b)(6) witnesses, K. Scott Nicholson in October 2013 and Christopher Dragan on  
7 July 18, 2015. Plaintiffs also deposed Tracy Sanderson, Senior Vice President of  
8 Evaluations Production on July 16, 2015. Defendants took the depositions of all  
9 four named Plaintiffs and eight additional class members (Gregory Walsh, Ricky  
10 Leung, Jeffrey Mandel, JoAnn Moses, Michael Smith, Kelly Williams, and Ronald  
11 Yamada).

12 69. On July 17, 2015, the parties attended the third and final mediation in  
13 this matter with Mark Rudy where they finalized a Memorandum of Understanding  
14 settling the Staff Appraisers' claims.

15 **THE SETTLEMENT IS FAIR, REASONABLE AND ADEQUATE**

16 70. The total settlement fund is \$36,000,000. In my professional opinion,  
17 this is an exceptional result for the class, meriting an attorneys' fee award above the  
18 benchmark of twenty –five percent.

19 71. The Settlement Agreement provides nearly \$100,000 in average gross  
20 recovery per class member. Even after all fees, costs, payment to the government,  
21 settlement administrator expenses, and Plaintiffs' enhancements are taken out, the  
22 Settlement provides nearly \$63,832 on average to each of the 369 class members.  
23 This calculation is explained in Paragraph 77 below.

24 72. The Settlement Amount of \$36,000,000 is 33.32% of what I view to be  
25 the reasonable full relief that the Staff Appraisers could expect to recover if they  
26 were 100% successful in proving their overtime and meal and rest period claims at  
27 trial, which is \$108,040,713. This calculation is based upon the expert witness report  
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1 of Dr. Brian Kriegler, which established – using Defendants’ actual company  
2 records and a jointly commissioned, robust scientific survey – each class member’s  
3 individual damages and class-wide damages for the claims asserted in this lawsuit. 1

4 73. In addition, it is my understanding that Bank of America has sold its  
5 appraisal operations (i.e., LandSafe) to CoreLogic, and that CoreLogic has  
6 reclassified its staff appraisers as non-exempt. My understanding is that LandSafe  
7 employed more than 500 staff appraisers. Assuming each of these staff appraisers is  
8 paid overtime for only 2 hours per week with a \$40 per hour base rate (both highly  
9 conservative figures), that amounts to a yearly value of \$3,000,000 (\$60 per  
10 overtime hour, multiplied by 2 hours per week, multiplied by 50 weeks, multiplied  
11 by 500 employees).

12 74. Plaintiffs’ Counsel’s opinion of the fairness of the settlement was  
13 shaped by, among other factors, the following:

- 14 • The Settlement involves no reversion to Defendants.
- 15 • The Settlement requires Defendants to pay their own payroll tax  
16 share.
- 17 • Because no Ninth Circuit authority exists regarding the central  
18 issues in this case, the exemption defenses, I gave serious  
19 weight to the risk and delay that might have been caused by the  
20 Court’s granting Defendants’ Section 1292(b) motion. I also  
21 considered the risk that some claims asserted by the Staff  
22 Appraiser class would be decertified by the Court, thereby  
23 increasing the expense and delay in prosecuting class members’  
24 claims. Even if the Staff Appraiser class obtained a favorable  
25 judgment in this Court, that judgment could be tied up for years  
26 on appeal and could be reversed. Whether real estate appraisers  
27 are exempt from overtime laws presents a question on which the  
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Ninth Circuit could potentially disagree with this Court’s Summary Judgment order, ECF No. 307. I have seen colleagues in other misclassification class actions lose – or nearly lose – massive favorable verdicts after appellate reversals. For example, *In re Farmers Insurance Exchange*, 481 F.3d 1119, 1132 (9th Cir. 2007) reversed a \$52.5 million plaintiffs’ verdict, finding claims adjusters exempt. The Supreme Court decision in *Christopher v. SmithKline Beecham Corp.*, 132 S. Ct. 2156 (2012), abrogated *In re Novartis Wage and Hour Litig.*, 611 F.3d 141 (2d Cir. 2010) – as to which a \$99 million settlement received final approval the month before the Supreme Court’s decision.

- I also considered other litigation risks such as Defendants enforcing severance agreements and arbitration agreements signed by some class members. Accordingly, there is significant value in reaching a settlement now, guaranteeing a significant payment to class members in the very near term.

**SETTLEMENT DISTRIBUTION**

75. Plaintiffs’ counsel will seek \$12,000,000 in attorneys’ fees (one-third of the common fund).

76. Pursuant to the Court’s Order regarding Class Counsel’s fees for the Review Appraiser Settlement, Class Counsel was awarded fees for only 50% of the work performed on behalf of both Staff and Review Appraisers. ECF No. 276 at 18. Therefore, Class Counsel’s relevant lodestar for this fee petition includes the remaining 50% of the work performed through the signing of the February 25, 2014, MOU, as well as all work performed on behalf of Staff Appraisers after the MOU. The lodestar for my co-counsel for work performed prior to the signing of the MOU

1 is \$289,015, which is 50% of the total lodestar through February 25, 2014. See ECF  
2 254-5. My firm's lodestar for all work performed prior to the signing of the MOU is  
3 \$319,655.63. See ECF 255-1. My co-counsel's lodestar for work performed after  
4 on behalf of Staff Appraisers from February 25, 2014 through the Final Approval  
5 Hearing is estimated to be \$868,972.50. See Declaration of Bryan Schwartz at ¶7.  
6 My firm's lodestar for work performed on behalf of Staff Appraisers through  
7 November 19, 2015 is \$1,399,842.50 for a total of 2470 hours. Attached as **Exhibit**  
8 **C** is a true and correct copy of the time that my firm and I have spent working on  
9 this case. Thus, my firm's total lodestar through November 19, 2015 is  
10 \$1,399,842.50. I estimate that my firm will spend an additional 100 hours through  
11 the Final Approval Hearing. The combined lodestar for the two firms that have  
12 worked on this lawsuit will be over \$2.9 million by the time of the final approval  
13 hearing. Consequently, the requested lodestar multiplier is approximately 4 to 4.5  
14 (i.e., \$12 million divided by \$2.9 million = 4.13). Before the final approval hearing,  
15 counsel will confirm for the Court their updated lodestar information.

16 77. After subtracting the requested attorneys' fees and costs, the PAGA  
17 payment to the Labor Workforce and Development Agency, the requested class  
18 representative enhancement payments, the requested class member deponent and  
19 discovery respondent payments, and the claims administrator's anticipated fees  
20 (capped at \$20,000), the remaining estimated Net Settlement Fund to be paid to  
21 Settlement class members will be approximately \$23,556,000. Divided by 369 class  
22 members, the estimated average net allocation per class member is \$63,832.

23 78. Undersigned counsel believes \$25,000 is the minimum adequate  
24 service payment to named Plaintiffs Terry P. Boyd, Ethel Joann Parks, Sonia  
25 Medina, and Linda Zanko for stepping forward in this matter and working  
26 extensively with Plaintiffs' counsel to seek to vindicate the class's rights. I am  
27 informed and believe that each of the named Plaintiffs spent extensive time speaking  
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1 with Plaintiffs' counsel on the telephone and meeting in person over the course of  
2 nearly two and a half years, in order to assist us to understand the facts in this case –  
3 particularly, the job duties and manner of compensation of Staff Appraisers and the  
4 qualifications necessary to work as a Staff Appraiser for Defendants. Plaintiffs have  
5 discussed with Plaintiffs' counsel Defendants' requests for production of documents  
6 and interrogatories, searching for electronic and hard copy documents sought by  
7 those requests, and have provided us with responsive documents and information.  
8 Plaintiffs have attended preparation sessions with Plaintiffs' counsel in advance of  
9 deposition, have been deposed by Defendants' attorneys, have reviewed and  
10 corrected the deposition transcripts, and have collaborated with Plaintiffs' counsel  
11 regarding mediation and settlement. Ultimately, their efforts were instrumental in  
12 achieving what Plaintiffs' counsel believes is an exceptional result for the class. Any  
13 less would not viably promote the public policy interest in encouraging those with  
14 wage/hour claims to assert them notwithstanding the fears, stress, and significant  
15 time expenditures associated with doing so.

16 79. My co-counsel and my firm are requesting reimbursement from the  
17 fund for out-of-pocket expenses incurred during this litigation in the amount not to  
18 exceed \$200,000. My co-counsel is requesting a total of \$17,026.80, which includes  
19 estimated costs through the Final Approval Hearing. *See* Declaration of Bryan  
20 Schwartz ¶ 9. My firm's costs to date are \$149,029.63. In particular, these costs  
21 include \$12,700 paid to Russell Research as Plaintiffs' share of the costs for  
22 administering the survey of real estate appraisers to determine how long it takes to  
23 complete various appraisals; over \$ 102,940.50 billed through October from  
24 EconOne (Dr. Kriegler's firm); over \$12,000 in court reporter fees for depositions,  
25 as well as thousands of dollars in costs associated with traveling to the mediations  
26 and deposition and other related costs. The costs for which reimbursement is sought  
27 do not include costs incurred prior to February 25, 2014, as those costs were  
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1 incurred prior to the settlement of the Review Appraiser Class claims. Attached  
2 hereto and marked as **Exhibit D** is a true and correct notation of the expenses that  
3 my firm has advanced in the instant case. It is expected that my firm will incur  
4 additional costs prior to the final approval hearing, including costs incurred to travel.  
5 In particular, Dr. Kriegler will work with Plaintiffs' counsel to calculate and verify  
6 the distributions to each class member pursuant to the settlement formula. Dr.  
7 Kriegler estimates that additional costs from EconOne (including work done in  
8 November 2015 for which we have not been billed) as well as through final  
9 approval would be \$15,000 to \$25,000. Plaintiffs will submit a supplemental  
10 declaration setting forth these additional costs prior to the final approval hearing.

11 80. Throughout the instant litigation, my practice has been extremely busy,  
12 so busy that I regularly turn away would-be clients. Because of that, I am confident  
13 that I could have filled every hour that I worked in the instant case with other  
14 meritorious work.

15 81. In addition to the non-reversionary deal and Defendants bearing their  
16 own share of payroll taxes, Plaintiffs' counsel insisted that payment be made  
17 quickly into a Qualified Settlement Fund – 15 days from the date of the order  
18 granting final approval of the settlement, assuming there are no objectors. (See ¶ 4,  
19 above at Exhibit A, ¶ 57).

20 82. My firm solicited a bid from Kurtzman Carson Consultants ("KCC"),  
21 the Claims Administrator that successfully administered the settlement of the  
22 Review Appraiser claims. KCC is a capable and reputable Claims Administrator,  
23 based upon my prior experiences with the firm. KCC will cap its fees at \$20,000,  
24 which is \$2,000 less than KCC's fee in the Review Appraiser settlement and is a  
25 very reasonable fee.

26 83. To date, no Class member has objected, and no California Class  
27 member (i.e., those who will be included unless they opt out) has opted out. The  
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1 requested attorneys' fees were stated in Settlement Notice provided to all eligible  
2 Staff Appraisers.

3 84. Attached hereto and marked as **Exhibit E** is a true and correct copy of  
4 the Order (1) Confirming Certification of Class Action for Settlement Purposes; (2)  
5 Granting Final Approval of Class Action Settlement; And (3) Entering Final  
6 Judgment in *Rieve v. Coventry Health Care Inc.*, 8:11-cv-1032 (C.D. Cal. 2014)  
7 (Carter, J.).

8 85. Attached hereto and marked as **Exhibit F** is a true and correct copy of  
9 the Order Granting Class Counsel's Motion for Attorneys' Fees and Reimbursement  
10 of Costs and Expenses in *Gerlach v. Wells Fargo*, 4:05-cv-00585 (N.D. Cal. 2007).

11 86. Attached hereto and marked as **Exhibit G** is a true and correct copy of  
12 the Minutes of the Order re Attorneys' Fees and Costs in *Mojica v. Compass Group*,  
13 8:13-cv-1754 (C.D. Cal.).

14 87. Attached hereto and marked as **Exhibit H** is a true and correct copy of  
15 the Order Granting Plaintiffs' Motion for Final Settlement Approval With Respect  
16 to Schneider Logistics Transloading and Distribution, Inc. and Wal-Mart Stores  
17 East, LP in *Carrillo v. Schneider Logistics, Inc.*, No. CV 11-8557 CAS (C.D. Cal.  
18 September 24, 2015) (Snyder, J.).

19 88. Attached hereto and marked as **Exhibit I** is a true and correct copy of  
20 the Order Granting Class Counsel's Motion for Attorneys' Fees, Litigation Costs,  
21 and Incentive Awards in *Ingalls v. Hallmark Mktg. Corp.*, No. 2:08cv4342-VBF  
22 (C.D. Cal. Oct. 16, 2009).

23 89. Attached hereto and marked as **Exhibit J** is a true and correct copy of  
24 the Order Granting Plaintiffs' Unopposed Motion for Final Approval of Class  
25 Action Settlement (Doc. 91) and Plaintiffs' Motion for Attorneys' Fees, Costs and  
26 Class Representatives' and Opt-Ins' Enhancements (Doc. 81) in *Lee v. JPMorgan*  
27 *Chase*, No. CV 13-511 JLS, (C.D. Cal. April 28, 2015) (Staton, J.).

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DECLARATION OF WILMER J. HARRIS IN SUPPORT OF PLAINTIFFS' MOTION FOR ATTORNEY'S

FEES

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**EXHIBIT K**

JS-6

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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

Terry P. Boyd, Ethel Joann Parks, Sonia Medina, Linda Zanko, and Victor Galaz individually, on behalf of others similarly situated, and on behalf of the general public,  
  
Plaintiffs,  
  
vs.  
  
Bank of America Corp.; LandSafe, Inc.; LandSafe Appraisal Services, Inc.; and DOES 1-10, inclusive  
  
Defendants.

Case No. SA13-CV-00561 DOC (JPRx)

**ORDER AND JUDGMENT  
GRANTING PLAINTIFFS' MOTION  
FOR FINAL APPROVAL OF CLASS  
ACTION SETTLEMENT [387]**

Date: January 19, 2016  
Time: 8:30 a.m.  
Place: Courtroom 9D, Santa Ana  
Hon. David O. Carter

The Parties came for hearing on Plaintiffs' Motion for Final Approval of Class Action Settlement on January 19, 2016 at 8:30 a.m. in the District Court for the Central District of California, the Honorable David O. Carter presiding. The proposed settlement in this case was preliminarily approved by this Court on September 28, 2015. Pursuant to the Court's Preliminary Approval Order and the Notice provided to the Class, the Court conducted a final fairness hearing as required by Federal Rule of

1 Civil Procedure 23(e). The Court has reviewed the materials submitted by the Parties  
2 and has heard arguments presented by counsel at the hearing.

3 For the reasons cited herein, the Court hereby grants final approval of the  
4 Settlement based upon the terms set forth in the Preliminary Approval Order and the  
5 Settlement Agreement filed by the parties. The Settlement appears to be fair, adequate,  
6 and reasonable to the Staff Appraiser California and Collective Classes (collectively,  
7 the "Settlement Class").

8 1. Except as otherwise specified herein, for purposes of this Order, the Court  
9 adopts and incorporates by reference all defined terms set forth in the Settlement  
10 Agreement.

11 2. The Court finds that this Settlement satisfies the requirements for class action  
12 settlement under Rule 23 and further finds that the Settlement Class has at all times  
13 been adequately represented by the Named Plaintiffs and Class Counsel.

14 3. The Notice approved by the Court was provided by First Class direct mail to  
15 the last-known address of each of the individuals identified as Class Members, after  
16 first processing such addresses through the U.S. Postal Service change-of-address  
17 database, as stated in the declaration of the Claims Administrator. In addition, follow-  
18 up efforts were made to send the Notice to those individuals whose original notices  
19 were returned as undeliverable. Efforts were also made to contact Settlement Class  
20 Members by telephone and e-mail. Furthermore, a private investigator was engaged to  
21 locate two class members with out-of-date contact information. The Notice adequately  
22 described all of the relevant and necessary parts of the proposed Settlement Agreement,  
23 the request for service payments to the Class Representatives, Class Member  
24 Deponents, and Class Member Discovery Respondents, and Class Counsel's request for  
25 an award of attorneys' fees and costs.

26 4. The Court finds that the Notice given to the Settlement Class fully complied  
27 with Rule 23, was the best notice practicable, satisfied all constitutional due process  
28

1 concerns, and provides the Court with jurisdiction over the Settlement Class Members.

2 5. The Court has concluded that the Settlement, as set forth in the Settlement  
3 Agreement executed by the Parties, is fair, reasonable, and adequate under state and  
4 federal laws, including the Fair Labor Standards Act 29 U.S.C. § 201 *et seq.* The Court  
5 finds that the uncertainty and delay of further litigation support the reasonableness and  
6 adequacy of the \$36,000,000 Settlement Fund established pursuant to the Settlement  
7 Agreement.

8 6. Out of the identified Settlement Class Members, none has objected to any  
9 aspect of the proposed Settlement, and none has opted out of the proposed Settlement.  
10 The reaction of the Settlement Class to the proposed settlement strongly supports the  
11 conclusion that the proposed Settlement is fair, reasonable, and adequate.

12 7. The Settlement is HEREBY APPROVED in its entirety and the releases  
13 encompassed therein are effectuated.

14 8. The Settlement Fund shall be dispersed in accordance with the Settlement  
15 Agreement as detailed in the Motion for Preliminary Approval of Class Action  
16 Settlement, granted on September 28, 2015.

17 9. Representative Plaintiffs Terry Boyd, Ethel Joann Parks, Sonia Medina, and  
18 Linda Zanko are each hereby awarded \$25,000 for their time and effort in pursuing this  
19 litigation, and in recognition of the broader releases they have signed and the hardships  
20 they faced in representing the class.

21 10. Class Member Deponents, as that term is defined in the Settlement  
22 Agreement, are each hereby awarded \$2,000 for their time and effort in providing  
23 deposition testimony in support of the class claims.

24 11. Class Member Discovery Respondents, as that term is defined in the Staff  
25 Appraiser Settlement Agreement, are each hereby awarded \$1,000 for their time and  
26 effort in providing document and interrogatory discovery responses in support of the  
27 class claims.  
28

1 12. Plaintiffs' application for Attorneys' fees in the amount of \$12,000,000 and  
2 reimbursement of litigation costs in the amount of \$175,528.54 is hereby granted in  
3 accordance with *Staton v. Boeing Co.*, 327 F.3d 938, 967 (9th Cir. 2003), and *Boeing*  
4 *Co. v. Van Gemert*, 444 U.S. 472, 478 (1980). In addition, the Court finds that the fee  
5 rates set forth in Plaintiffs' application for Attorneys' fees are fair and reasonable. *See*  
6 ECF Nos. 380-1 and 381-1. Further, the Court approves payment of \$19,608.88 for the  
7 Settlement Administrator, Kurtzman Carson Consultants LLC.

8 13. The Court approves the *cy pres* recipient identified in the Settlement: Legal  
9 Aid Society-Employment Law Center, which meets the test under *Dennis v. Kellogg*  
10 *Co.*, 697 F.3d 858, 865 (9th Cir. 2013) that "there be a driving nexus between the  
11 plaintiff class and the *cy pres* beneficiaries."

12 14. The Court finds and determines that payment to the California Labor and  
13 Workforce Development Agency of \$75,000 as its share of the settlement of civil  
14 penalties under the Private Attorney General Act in this case is fair, reasonable, and  
15 appropriate. The Court hereby gives final approval to and orders that the payment of  
16 that amount be paid out of the Settlement Fund in accordance with the Settlement  
17 Agreement.

18 15. Neither this Order nor the Settlement Agreement constitutes an admission or  
19 concession by any of the released parties of any fault, omission, liability or  
20 wrongdoing. This order is not a finding of the validity or invalidity of any claims in this  
21 action or a determination of any wrongdoing by the Defendants. The final approval of  
22 the Settlement Agreement does not constitute any opinion, position, or determination of  
23 this Court, one way or the other, as to the merits of the claims and defenses of  
24 Plaintiffs, Defendants, or the Class Members.

25 16. The Court hereby enters Judgment approving the terms of the Settlement.  
26 This document shall constitute a final judgment with respect to the Claims of the  
27 Settlement Class for purposes of Rule 58 of the Federal Rules of Civil Procedure, and  
28

1 the Settlement Class Members are barred and permanently enjoined from initiating or  
2 prosecuting the Released Claims as defined in the Agreement.

3 The claims of the Settlement Class Members are hereby DISMISSED WITH  
4 PREJUDICE, with each party to bear his, her, or its own costs, except as set forth  
5 herein, and with this Court retaining exclusive jurisdiction to enforce the Settlement  
6 Agreement, including jurisdiction over the disbursement of the Settlement Fund.

7  
8 IT IS SO ORDERED

9  
10 DATED: January 19, 2016

*David O. Carter*

11  
12 HON. DAVID O. CARTER  
13 UNITED STATES DISTRICT COURT  
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**EXHIBIT L**



Network Deposition Services, Inc.  
 1800 Century Park East • Suite 150  
 Los Angeles, CA 90067  
 Phone (310) 557-3400 • (800) 788-2021  
 Fax (310) 557-3555 • networkdepo.com

**I am an invoice.**  
**Take me to your accounts**  
**payable department.**

Invoice No. **A1603195**  
 Invoice Date **March 7, 2016**  
 Invoice Due **April 6, 2016**  
 Invoice Total **1,208.35**  
 Balance Due **1,208.35**

Legal Aid Foundation of Los Angeles  
 Attention: Shayla R. Myers, Esq.  
 7000 South Broadway  
 Los Angeles, CA 90003

**MAR 08 2016**

Make checks payable to Network Deposition Services, Inc. • Federal Tax ID No. 77-0591481  
 • A service fee of 1.5% per month may be added to any invoice over 30 days old.

Noticing firm	Legal Aid Foundation of Los Angeles	Case No.	NDS Job No.	Client Matter No.	Deposition Date
Noticed by	Shayla R. Myers, Esq.				
Deposition of	LeShon Frierson	CV 14-07344 PSG (AJW)	179845		2-22-2016
Caption	Los Angeles Catholic Worker, an unincorporated Association; Cangress, a Non-Profit Corporation; Harry James Jones, Louis Grady, Lloyd Hinkle, Walter Shoaf, Individuals, Plaintiffs, vs. Los Angeles Downtown Industrial District Business Improvement District; Central City East Association, Inc.; City of Los Angeles; Does 1-10, Defendants.				
Description of Service					Amount
Court Reporting					966.75
Exhibits					241.60

NDS invoice version 3.2

Detach lower portion and return with your payment.

**Payment From**

Legal Aid Foundation of Los Angeles  
 Attention: Shayla R. Myers, Esq.  
 7000 South Broadway  
 Los Angeles, CA 90003

Write notes or address changes below

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Invoice No.	<b>A1603195</b>
Invoice Date	March 7, 2016
Late After	April 6, 2016
Total Due	1,208.35
Amount Enclosed	

**Mail Payment To**

Network Deposition Services, Inc.  
 1800 Century Park East  
 Suite 150  
 Los Angeles, CA 90067



**EXHIBIT M**

**Shayla R. Myers**

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**From:** Catherine Sweetser <catherine.sdshhh@gmail.com>  
**Sent:** Wednesday, February 17, 2016 7:28 AM  
**To:** Shayla R. Myers  
**Subject:** Fwd: Transcript Request for Case No: 2:14-CV-07344-PSG  
**Attachments:** TDO LA Catholic Worker v LA Downtown Industrial (Ms. Sweetser) 1-11-16.pdf

----- Forwarded message -----

**From:** CourtRecording\_CACD <[courtrecording\\_cacd@cacd.uscourts.gov](mailto:courtrecording_cacd@cacd.uscourts.gov)>  
**Date:** Sat, Jan 23, 2016 at 12:31 PM  
**Subject:** Transcript Request for Case No: 2:14-CV-07344-PSG  
**To:** [catherine.sdshhh@gmail.com](mailto:catherine.sdshhh@gmail.com)  
**Cc:** [domisbet@aol.com](mailto:domisbet@aol.com)

**Defendant:**

**Case Name:** Los Angeles Catholic Worker et al v. Los Angeles Downtown Industrial District Business Improvement District et al  
**Case Number:** 2:14-CV-07344-PSG

**Estimated Cost:** \$101.64  
**Delivery:** Daily Transcript

Dear Counsel,

Your estimate of cost has been provided above.

Please make check payable to Babykin Courthouse Services and make reference to the case number listed above. Mail payment to 1218 Valebrook Place, Glendora, CA 91740.

If you wish to pay by credit card, you may contact Babykin Courthouse Services at [626-963-0566](tel:626-963-0566).

Please note: Personal checks are not accepted. Transcript preparation will begin upon receipt of payment.

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Schonbrun Seplow Harris & Hoffman LLP  
723 Ocean Front Walk  
Venice, CA 90291  
310.396-0731  
fax:310.399-7040