.UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

NIKITA PETTIES, et al.,	)	
Plaintiffs,	)	
v.	)	Civil Action No. 95-0148 (PLF)
DISTRICT OF COLUMBIA, et al.,	)	
Defendants.	)	

OPINION AND ORDER

This matter is before the Court on plaintiffs' motion for attorneys' fees and costs, covering the period from March 1, 2005 through November 30, 2007, in the amount of $1,122,114.67. Defendants are not opposed to awarding plaintiffs' counsel some amount in attorneys' fees, but they argue that the amount requested should be drastically reduced. After careful consideration of the parties' papers, the oral arguments presented by counsel on September 16, 2009, the relevant statutes and case law, and the entire history of this case, the Court will grant plaintiff's motion.

I. BACKGROUND

In 1995, plaintiffs filed a class action lawsuit under 42 U.S.C. § 1983 against the District of Columbia, the Superintendent of the District of Columbia Public Schools ("DCPS") and the Director of Special Education for DCPS, asserting that DCPS had consistently failed to pay the costs of special education placements or related services to private providers, either fully

or on a current or timely basis, as required under the Individuals With Disabilities Education Act, 20 U.S.C. § 1400 et seq. As a result of these failures, many of the private providers threatened to terminate the private placements of special needs children. On March 17, 1995, this Court granted plaintiffs' motion for a preliminary injunction, finding that

> unless defendants fully and immediately fund all DCPS students currently in private special education placements and/or receiving related services from private providers and, in addition, give adequate written assurances that such payments will be made on a current basis in the future, many, if not all of those students will have those placements and/or services terminated, and there is no indication that appropriate alternative placements will be available to meet the students' individual needs.

Petties v. District of Columbia, 881 F. Supp. 63, 64 (D.D.C. 1995).

On the same day, March 17, 1995, the Court certified a plaintiff class in Petties under Rule 23(b)(2) of the Federal Rules of Civil Procedure and defined the class as follows:

> all [DCPS] students currently placed in private special education schools or receiving special education and/or related services from a private third party provider, all [DCPS] students who currently are receiving related services from private providers, and all [DCPS] students who have been determined by an administrative decision or by agreement with the DCPS to be eligible to receive services from private providers (including private placements).

Petties v. District of Columbia, 881 F. Supp. at 64. On July 21, 1995, the Court modified the preliminary injunction and the definition of the class specifically to include all DCPS students with disabilities whose private special education placements and/or related services are funded by the District of Columbia Department of Human Services. See Petties v. District of Columbia, 894 F. Supp. 465, 469 (D.D.C. 1995).

In the many years that have followed, the parties have been working to bring defendants into compliance with the IDEA and, specifically, to guarantee that there are ongoing systems in place to assure that private providers are paid promptly and fully and that all students requiring transportation to private placements (a related service required by the IDEA) receive that transportation. See Petties v. District of Columbia, 888 F. Supp. 165, 171 (D.D.C. 1995); Opinion and Order, Dkt. No. 214 (June 3, 1996); Opinion and Order of Reference, Dkt. No. 380 (July 8, 1997) (appointing Special Master); Petties v. District of Columbia, 268 F. Supp. 2d 38 (D.D.C. 2003) (appointing Transportation Administrator). By Order of June 29, 1995, plaintiffs' class counsel were directed expressly to monitor the defendants' compliance with the Court's Order of March 17, 1995 and other orders, to report to the Court as necessary respecting defendants' compliance, and to advise all private providers that "plaintiffs' counsel are responsible for monitoring defendants' compliance with the Court's Orders and shall be available for those [private] schools and providers to contact with information or concerns regarding defendants' compliance with the Court's Orders." Order, Dkt. No. 50 ¶ 6 (June 29, 1995).

As for class counsels' right to receive attorneys' fees, the Court directed class counsel to file attorneys' fees motions on a quarterly basis, as follows:

> Plaintiffs' counsel will file on a quarterly basis an application for fees and costs associated with the monitoring provided [in the June 29, 1995 Order]. Defendants may file a response within fourteen (14) days of the filing of the application for fees and costs and plaintiffs' counsel may file a reply within five (5) days of the filing of defendants' response. The fees and costs approved by the Court will be paid by defendants within thirty (30) calendar days of said approval.

Order, Dkt. No. 50 (June 29, 1995). So far as it can recall, the Court thereafter never had to rule

on any attorneys' fees motions because counsel for the parties always reached agreement each quarter on the fees and costs to be awarded, and the parties then submitted a consent judgment to the Court for approval. See Petties v. District of Columbia, 538 F. Supp. 2d 88, 92 (D.D.C. 2008).

In the past decade, the availability of attorneys' fees in IDEA cases in the District of Columbia has changed dramatically. In response to "the growth in legal expenses and litigation associated with special education in the District of Columbia and the usurping of resources from education to pay attorney fees," the Congress attached a rider to the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 limiting the amount of fees the District could pay to prevailing parties in IDEA cases. Blackman v. District of Columbia, 456 F.3d 167, 170 (D.C. Cir. 2006).[1] In 2006, after virtually identical riders had been attached to subsequent appropriations acts, the court of appeals held that an action brought pursuant to Section 1983 to enforce IDEA rights is a suit under the IDEA and therefore was subject to the congressionally imposed fee cap. See id. at 170, 177-78.

Only after the court of appeals decision issued did defendants begin objecting to paying the attorneys' fees requested in the quarterly attorneys' fees motions filed by plaintiffs' class counsel on the ground that the fee cap applied to this class action lawsuit. After briefing by the parties on this issue, the Court ruled that "the cap does not preclude the Court from ordering defendants to pay and — more importantly — does not preclude the defendants from paying reasonable attorneys' fees to [counsel for] the plaintiff classes, so long as the total amount paid

[1] The initial fee cap limited the fees that could be paid to counsel for plaintiffs to $50 per hour and $1300 per case. See Petties v. District of Columbia, 538 F. Supp. 2d 88, 93 (D.D.C. 2008).

by the defendants does not surpass the statutory fee cap multiplied by the total number of members of the plaintiff class." See Petties v. District of Columbia, 538 F. Supp. 2d at 96.[2] Having succeeded in the litigation over the fee cap, plaintiffs then filed the pending motion for attorneys' fees for the period from March 1, 2005 through November 30, 2007, which included fee claims that arose while the applicability to class actions of the fee cap statute was in dispute. When settlement discussions before a magistrate judge were unsuccessful, the matter became ripe for decision.

II. DISCUSSION

It is established that for counsel to recover reasonable attorneys' fees, plaintiffs must first demonstrate that they are the prevailing party or parties in the litigation. See Blackman v. District of Columbia, 59 F. Supp. 2d 37, 40-41 (D.D.C. 1999); see also 42 U.S.C. § 1988(b). The Court then must determine whether the fees sought are reasonable by calculating "the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate" — the so-called "lodestar" fee. Hensley v. Eckerhart, 461 U.S. 424, 433 (1983). With regard to reasonableness, plaintiffs must submit supporting documentation with the motion for attorneys' fees, providing sufficient detail so that the Court can determine "'*with a high degree of certainty*' that the hours billed were actually and reasonably expended, that the hourly rate charged was reasonable, and that the matter was appropriately staffed to do the work required efficiently and

[2] The Court estimated that the class consisted of approximately 6,500 class members and concluded that if each class member brought an individual action and received the full amount of attorneys' fees under the cap, which was then $4,000, the total amount of fees the District of Columbia could conceivably owe was approximately $26,000,000 — far more than plaintiffs have ever requested. See Petties v. District of Columbia, 538 F. Supp. 2d at 98.

without duplicative billing." Watkins v. Vance, 328 F. Supp. 2d 23, 26 (D.D.C. 2004) (quoting In re Olson, 884 F.2d 1415, 1428-29 (D.C. Cir. 1989) (emphasis in original)). See also Hensley v. Eckerhart, 461 U.S. at 433; Covington v. District of Columbia, 57 F.3d 1101, 1107 (D.C. Cir. 1995). Once the plaintiff has provided such information, there is a presumption that the number of hours billed and the hourly rates are reasonable; the burden then shifts to the defendants to rebut plaintiffs' showing of reasonable hours and reasonable hourly rates for attorneys who worked on the matter at various skill levels and experience for this kind of case. See Watkins v. Vance, 328 F. Supp. 2d at 26.

A. Appropriate Hourly Rates

The parties in this case agree that the Laffey matrix maintained by the United States Attorneys' Office provides the appropriate hourly rates for class counsel and their paralegals. See Watkins v. Vance, 328 F. Supp. 2d at 26 n.2 ("The prevailing market rate can be determined by reference to the so-called Laffey matrix.") (citing Laffey v. Northwest Airlines, Inc., 572 F. Supp. 354 (D.D.C. 1983), *rev'd on other grounds*, 746 F.2d 4 (D.C. Cir. 1984)). They disagree, however over *which year's* Laffey rates should be used to calculate the lodestar. Plaintiffs seek application of the 2008 Laffey rates, the year in which they filed their attorneys' fees petition, arguing that using current rates is appropriate in order to compensate them for the time value of the fees they did not receive at the time they were billed or would have been billed had the defendants not elected to litigate the fee cap issue. Defendants at first argued that the Court should use the Laffey matrix in effect for the year in which the work was performed, but counsel for defendants at oral argument said that defendants would be agreeable to an increase of

one year in the matrix due to the delay in resolving plaintiffs' petition. Defendants continue to maintain, however, that plaintiffs' delay in filing the fee petition is of plaintiffs' own making, and that plaintiffs therefore should not be compensated at the 2008 rates.

The Court thinks it fair to use the Laffey rates for the 2008 year. As explained by counsel for plaintiffs in their brief and again at oral argument, plaintiffs had been submitting quarterly bills to defendants beginning in 2002. The parties had developed a practice of negotiating a reimbursement amount. In May of 2007, defendants objected to payment of the requested attorneys' fees, for the first time, relying on the fee cap statute. Defendants also objected to plaintiffs' subsequent quarterly motion for attorneys' fees, filed in July of 2007, incorporating their previous arguments. Throughout the rest of 2007 and early 2008, the parties engaged in litigation over the applicability of the fee cap to this case. In March of 2008, the Court issued its opinion finding that the cap applied to each individual member of the class, not to the entire class action. Plaintiffs filed the current fee petition two months later. The Court concludes that any delay in the resolution of the current fees request was not caused by plaintiffs. Because the parties were engaged in litigation over the amount of fees available, plaintiffs acted reasonably in not filing fee motions, which defendants were certain to oppose, during the second half of 2007 and early 2008. Plaintiffs should be compensated for the time value of the money that has not been paid, and the Court therefore will use the United States Attorneys' Office Laffey matrix for 2008 to establish the relevant hourly rates. See Does v. District of Columbia, 448 F. Supp.2d 137, 142-43 (D.D.C. 2006) ("an appropriate adjustment for delay in payment — whether by the application of the current rather than historic hourly rates or otherwise is within

the contemplation of [Section 1988]") (quoting Missouri v. Jenkins by Agyei, 491 U.S. 274, 283-84 (1989)).[3]

B. Issues on Which Plaintiffs' Prevailing Party Status is Challenged

Defendants argue that plaintiffs should not receive attorneys' fees for work on two issues on which, in the view of the defendants, plaintiffs are not the prevailing parties: (1) rate-setting for services provided to students in private schools, and (2) verification of residency to determine eligibility for educational services from the District of Columbia. Defendants argue that these issues were not mentioned in the complaint filed by plaintiffs and were not addressed in the preliminary injunction issued, and subsequently modified, by the Court; they therefore are not matters at issue in this lawsuit. Plaintiffs respond that both rate-setting and residency verification are intrinsically related to class counsel's responsibility to ensure that the process of payment for special education placements and related services is fair and that payments to private providers are not jeopardized. They say that work on these matters is essential to their responsibility to monitor defendants' compliance with the Court's orders and the IDEA, a responsibility given to them by this Court.

1. Rate-Setting

Rate-setting refers to the development of a plan by the defendants to ensure that the cost of tuition and related services is consistent and does not vary from private school to

[3] Under this standard, Bradford Johnson's and Steven Ney's rate is $440 an hour; Lisae Jordan's rate is $390 an hour; and Robin Thorner's and Patrick Wojahn's rate is $255 an hour. The time of Tiffany Pertillar, Sharonda Mann, and Jackie Parker are billed pursuant to the Laffey rates for paralegal support, that is, at the rate of $125 per hour.

private school. Because defendants have not yet implemented a rate-setting mechanism, the Special Master believes it is "necessary for class counsel to continue to monitor the defendant's adjustment of rates from year to year to ensure that the process is fair and [does not result in] the forfeiture of educational placements by students who are class members." Memorandum of the Special Master, Dkt. No. 1533 at 6 (Aug. 25, 2008). Plaintiffs argue that "[d]efendants' failure to establish a consistent and coherent process for setting rates for both non-public tuition and for necessary related services has often been a subject of dispute between non-public providers and Defendants — in fact, the Special Master has held at least three hearings on disputes that arose because of disagreements over the rates that providers charged to DCPS." See Plaintiffs' Response to Defendants' Opposition to Motion for an Award of Interim Attorneys' Fees and Costs ("Reply") at 6.

The Special Master has stated that among the four indicators that are "necessary to ensure the execution of a reliable, fair, and efficient payment process without judicial supervision" — in other words, what is required to bring this case to a close — is that defendants be able to "accurately project special education costs based on rates that 1) have been set in accordance with established policy; and 2) are commensurate with rates paid to that provider by surrounding jurisdictions." Status Report of the Special Master, Dkt. No. 1275 at 5-6 (May 4, 2005). While class counsel are not entitled to attorneys' fees for *any and all work* that is conceivably related to the case, the Court agrees that the development of a rate-setting mechanism is essential to ensure that members of the class do not find their special education placements and related services jeopardized as a result of defendants' historically faulty payment practices. It therefore is essential to plaintiffs' class counsels' monitoring role. See Cobell v.

Norton, 407 F. Supp. 2d 140, 157 (D.D.C. 2005) ("Services devoted to reasonable monitoring of the court's decrees, both to insure full compliance and to ensure that the plan is indeed working . . . are compensable services.").[4] The Court concludes that plaintiffs are prevailing parties with regard to rate-setting and that they therefore are entitled to attorneys' fees for their reasonable time spent on this activity.

2. Residency Verification

Defendants also challenge an award of attorneys' fees for class counsel's time spent verifying the residency of members of the plaintiff class. The District of Columbia Code requires that in order for a student to enroll in a District of Columbia public school, a District of Columbia public charter school, or to otherwise receive educational services paid for by the District of Columbia, the student must provide proof of his or her residency in the District every year. See D.C. CODE § 38-306; see also D.C. CODE § 38-308(a). Typically, the student's parent or guardian (unless the student is an adult) would submit appropriate paperwork establishing residency at the student's local school. See D.C. CODE § 38-309(a). For students who attend nonpublic schools, however, the District requires the student's parent or guardian to bring residency documentation to the Office of Student Residency Verification, located at 825 North Capitol Street, N.E. If a parent or guardian does not fulfill this obligation on his or her own, the District typically sends a reminder letter advising that the District will cancel tuition payments

[4] In the fourteen years since the plaintiffs filed their complaint and the Court issued its preliminary injunction, plaintiffs' class counsel, along with Special Master Elise Baach, have been given the responsibility for monitoring defendants' compliance with their obligations under the IDEA. See Order, Dkt. No. 50 ¶ 6 (June 29, 1995); Opinion and Order of Reference, Dkt. No. 380 (July 8, 1997).

and transportation for the child if residency is not established. See Opinion and Order, Dkt. No. 1595 at 4-5 (Feb. 2, 2009).

Students whose parents or guardians never submit documentation, or whose documentation is found to be inadequate, are in danger of losing their eligibility to receive educational services — including special education and related services — for which the District is responsible. The number of students potentially affected by a failure to prove residency is significant. In the winter of the 2008-2009 school year, for example, the residency status of several hundred students was still unproven. See Opinion and Order, Dkt. No. 1595 at 6. The Court has previously expressed its concern about "the adequacy of DCPS's record keeping [with regard to residency] and the probability that many mistakes have been made during the notification process [reminding parents to verify residency]." See id. at 9-10. Furthermore, according to the Special Master, "[c]lass counsel's assistance has been necessary to ascertain the accuracy of DCPS's information and will remain so until systems or procedures can reduce errors and misinformation in the current residency verification process." Memorandum of the Special Master, Dkt. No. 1533 at 4.

Over the course of this litigation, defendants' counsel have worked with plaintiffs' class counsel informally to verify class members' residency to avoid the erroneous termination of educational services. Plaintiffs point out that in most years since 2000, defendants have shared with plaintiffs' counsel a list of class members whose residency was not proven by the verification deadline. See Reply at 8. Plaintiffs used this information, with defendants' knowledge and perhaps even their encouragement, to assist class members in verifying their residency status. Furthermore, in settling previous fee petitions, defendants have not challenged

class counsel's inclusion of time spent doing work on residency verification in their requests for fees. Although the Court takes the point made by counsel for defendants at oral argument that doing so was a business judgment on the part of the District and not a concession that residency verification is a part of this lawsuit, it appears that at no time during the period for which plaintiffs requested fees did defendants challenge the time class counsel spent on residency verification as outside the scope of their role as class counsel. Class counsel believed that this work was an essential part of monitoring defendants' compliance, a belief in which defendants had until recently acquiesced. The Court therefore concludes that it is appropriate to award plaintiffs fees for time spent on residency verification for the time period at issue.

The Court cautions, however, that the same conclusion may not be true going forward. Defendants expressly changed their position and challenged class counsel's right to receive residency information in the 2008-2009 school year. This issue came to a head in plaintiffs' motion for a preliminary injunction filed on January 29, 2009. The Court denied the motion on the ground that "the procedures described by counsel for DCPS . . . provide adequate safeguards against widespread termination of funding for students who are D.C. residents." Opinion and Order, Dkt. No. 1595 (Jan. 29, 2009) at 10. Because the Court's rationale for awarding attorneys' fees for class counsels' residency verification activities rests on defendants' previous failure to protest class counsels' work verifying residency, the Court's conclusion as to counsel's entitlement to fees for this activity in the past may change in the future if defendants continue to take the position that residency verification is not a part of this lawsuit or that they will not work with plaintiffs' class counsel on this issue.

C. Adequacy of Billing Records

The defendants ask for a 75% reduction in the amount of attorneys' fees and costs requested by plaintiffs' class counsel. They make the following arguments in support of this request: (1) the billing records submitted by counsel do not provide adequate detail for the work done, such as describing with specificity the nature of meetings attended or topics discussed and the substance of telephone calls for which counsel has billed, or the use of generic labels such as "strategizing;" (2) the billing records contain multiple tasks within a single aggregate time entry and no indication of the specific amount of time spent on an individual task (so-called "block billing"); and (3) the bills demonstrate that counsel have engaged in overstaffing because "virtually all of their attorneys are involved in every issue." Defendants' Opposition to Plaintiffs' Motion for an Award of Interim Attorneys' Fees and Costs at 7. The Court rejects these arguments, largely for the reasons set out in the declarations of Robin Thorner and Bradford P. Johnson, filed as exhibits to plaintiffs' response in support of their motion. See Plaintiffs' Response to Defendants' Opposition to Motion for an Award of Interim Attorneys' Fees and Costs at Exs. 2 ("Thorner Decl."), 4 ("Johnson Decl.").

Defendants rely almost exclusively on Role Models America, Inc. v. Brownlee, 353 F.3d 962 (D.C. Cir. 2004), to support their arguments about the asserted inadequacies of plaintiffs' time records. In doing so, defendants fail to consider the factors distinguishing Role Models from the present case. As Judge Kessler has pointed out, the opinion in Role Models "must be viewed in context" — an extraordinarily high bill for a garden variety case. Smith v. District of Columbia, 466 F. Supp. 2d 151, 157 (D.D.C. 2006). "[T]he ruling in Role Models simply cannot be blindly applied without being mindful of the factual context in which it was

decided." Id. at 158; see also DL v. District of Columbia, 256 F.R.D. 239, 246 (D.D.C. 2006) (when fee request is "unreasonable on its face," as in Role Models, the court should scrutinize time records "with a more demanding eye"). In Role Models, counsel expended minimal effort — as the case required "no discovery, no travel, no evidentiary hearings, no contested facts, and no petitions for rehearing" — yet requested fees dramatically disproportionate to the work required. Smith v. District of Columbia, 466 F. Supp. 2d at 157; see id. at 161. The present case could not provide a starker contrast. This very complex case has been actively litigated for fourteen years, during which time defendants have yet to comply fully with federal law, requiring plaintiffs' class counsel to litigate numerous issues and counsel and the Special Master to continue to engage in extensive monitoring work.

Defendants' argument that plaintiffs' billing records are inadequate because they are too vague is overstated. As plaintiffs explained in their reply and at oral argument, while the work identified by particular billing entries might not be completely clear to someone with no familiarity with the case, individuals who do have knowledge of the various disputes that have arisen throughout the lengthy history of this case — like defendants' counsel — would understand various entries in the context or surrounding events. See, e.g., Reply at 12 (explaining that the entry for "JAM teleconference" was a pre-hearing teleconference which defendants themselves attended). In addition, plaintiffs provided additional information in their Reply and its supporting exhibits to clarify any remaining confusion, including a table explaining the initials and abbreviations used in the original time records, see Johnson Decl., Appendix 1, and specific responses to time entries characterized as inadequate. See id. at Appendix 2.

Defendants complain about plaintiffs' billing for time spent "strategizing" as unduly vague and generic. Yet because plaintiffs' attorneys have divided among themselves the many complex matters involved in this case, they must meet occasionally or talk on the phone or exchange e-mails to discuss these issues and to strategize. Reimbursement for such time is "well within the District Court's discretion," given that "attorneys must spend at least some of their time conferring with colleagues, particularly their subordinates, to ensure that a case is managed in an effective as well as efficient manner." Nat'l Ass'n of Concerned Veterans v. Sec'y of Def., 675 F.2d 1319, 1337 (D.C. Cir. 1982). The Court therefore concludes that time billed for "strategizing" was necessary and appropriate and that plaintiffs should receive compensation for this work.

Defendants' attempt to characterize many of the entries in plaintiffs' fee petition as block billing is misguided. The term "block billing" commonly refers to a single time entry that lists multiple tasks, thus making it impossible to evaluate each task's reasonableness. See Role Models America, Inc. v. Brownlee, 353 F.3d at 971. Upon review, it appears that most of the entries of which defendants complain do not actually lump multiple tasks together. The relatively few entries that do contain more than one task are of relatively minor significance and amount to minimal time. Moreover, as Mr. Johnson explained in his declaration, for many of the entries about which defendants complain, separating the entries into discrete tasks would have been illogical. See Johnson Decl. ¶ 14 ("Given the number of schools and payment problems that appear every month in the payment reports created by defendants, it would be impractical to create a separate time entry for the small time increments required to evaluate and recommend follow-up activities for each school."); see also id. ¶ 16. To the extent that there are some non-

specific, vague or unclear items in the bills, they have been clarified by the declarations of Ms. Thorner and Mr. Johnson. Furthermore, upon examination, it is clear that many of the challenged entries require no further explanation. For example, although Lisae Jordan's time entry on June 10, 2005, for "Telephone call to transportation administrator; meet with RT re: RIF" (Ex. A at 3, attached to Defs.' Opp'n to Pls.' Mot. for an Award of Interim Att'ys Fees and Costs) contains two tasks, the time entries for Ms. Thorner on the same billing page break down the time into the relevant increments: the meeting between Ms. Jordan and Ms. Thorner took 0.9 hours, and the telephone call with the Transportation Administrator took 0.4 hours. Id. Between defendants' inaccurate characterizations of certain of plaintiffs' time entries as block bills and the Thorner and Johnson declarations, the Court is satisfied that plaintiffs' billing entries are adequate.

The Court agrees with defendants that sound billing judgment requires that legal matters are "appropriately staffed to do the work required efficiently and without duplicative billing." Blackman v. District of Columbia, 397 F. Supp. 2d 12, 14 (D.D.C. 2005). The Court concludes, however, that contrary to defendants' claim of overstaffing, plaintiffs' counsel in fact exercised sound billing judgment by establishing and relying upon internal billing procedures to prevent duplicative billing, to monitor potential overstaffing, and to ensure efficiency. See Thorner Decl. ¶ 6; see also Thorner Decl. ¶ 5 ("[w]e coordinate closely with ULS co-counsel in order to divide tasks and avoid the risk of duplicated work."). Furthermore, as Ms. Thorner pointed out both in her declaration and at oral argument, if more than two staff members from University Legal Services ("ULS") attended a parties' meeting, dispute hearing, court hearing, or meeting with the Special Master, Transportation Administrator, or outside parties, counsel

consistently billed for only two staff members. See Thorner Decl. ¶ 7. As a result of this policy, plaintiffs' counsel from ULS requested $16,660 less in their fee request than they otherwise would have. Id. Similarly, as Ms. Thorner points out, ULS has not sought reimbursement for travel time, even though these charges are compensable. Id. ¶ 10. In addition, Mr. Johnson states that the "vast majority" of the time spent on Petties matters utilizes paralegal staff, making the final bill to defendants significantly less than it otherwise might be. See Johnson Decl. ¶ 5. Moreover, Mr. Johnson reports that he regularly excludes from bills time spent by himself and his paralegal staff — amounting to more than $28,000 for the fee petition at issue — for time spent on fee petitions. See id.

In complex litigation, it is of course appropriate to consider whether and when multiple attorneys are necessary to handle "different aspects of the litigation." Save Our Cumberland Mountains v. Hodel, 651 F. Supp. 1528, 1538 (D.D.C. 1986). The present case, a fourteen year-old class action lawsuit, has required extensive monitoring and enforcement work, involving many complex issues. To ensure the application of sound billing judgment despite the complexity of the case, class counsel have advised the Court that they have divided responsibility for the various legal issues involved in the case to ensure that only one attorney is taking the lead on any particular matter. See Thorner Decl. ¶ 12 (explaining, for example, that she is responsible for reviewing dispute correspondence, while Mr. Ney served as lead counsel in defendants' challenge to the authority of the Transportation Administrator, the Just-A-Mite disputes, and the litigation over the fee cap). The Court concludes that plaintiffs' billing records do not evidence overstaffing that would justify a reduction of fees awarded.

For the reasons stated above, it is hereby

ORDERED that plaintiffs' motion for attorneys' fees and costs [1507] is GRANTED; it is

FURTHER ORDERED that plaintiffs' class counsel are awarded $1,122,114.67 for attorneys' fees and costs incurred in this action from March 1, 2005 through November 30, 2007. The defendants are directed to make payment to plaintiffs' counsel by check delivered to plaintiffs' counsel on or before November 3, 2009; it is

FURTHER ORDERED that if defendants do not deliver timely payment, interest shall accrue pursuant to 28 U.S.C. §1961(a) from the date of this Opinion and Order; and it is

FURTHER ORDERED that plaintiffs' motion to compel defendants to pay an advance of attorneys' fees and costs [1668] is DENIED as moot.

SO ORDERED.

_/s/_____
PAUL L. FRIEDMAN
United States District Judge

DATE: October 20, 2009