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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

STEVEN TRUJILLO; JEFF)
QUON; CRAIG ANSMAN; WILL)
RIVERA; SCOTT ANDERSON;)
ROBERT BERNHARD; CRAIG)
PEFFERLE,)
Plaintiffs,)
v.)
CITY OF ONTARIO, et al.)
Defendants.)

Case No. EDCV 04-1015-
VAP(SGLx)

**[Motion filed on March 16,
2009]**

**ORDER CONDITIONALLY GRANTING
MOTION REGARDING ATTORNEYS'
FEES AND COSTS PENDING FINAL
APPROVAL OF SETTLEMENT
AGREEMENT**

Plaintiffs' Motion for Preliminary Approval of the Settlement and the Motion for Attorneys' Fees of the ACLU and Hadsell Stormer ("Motion"), filed March 16, 2009, came before the Court for hearing on April 6, 2009. The Court has reviewed and considered all papers filed in support of the Motion, as well as the arguments advanced by counsel at the hearing and in supplementary materials filed with the Court.¹

¹Several submissions did not comply with Local Rule 11-5.3, which requires the use of tabs.

1 In separate orders the Court granted preliminary
2 approval of the settlement and denied attorney's fees to
3 Lackie & Dammeier. The Court hereby GRANTS the Motion as
4 to the attorney's fees ON THE CONDITION that the
5 settlement receives final approval.

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I. BACKGROUND

8 A plaintiff class of approximately 125 police
9 officers and others, represented by four law firms over
10 the course of five years, seeks a judicial determination
11 of the reasonable amount of its attorneys' fees. On the
12 morning of the first day of trial, the parties settled
13 their dispute, and the written settlement agreement
14 provides for reimbursement of fees and costs. Plaintiffs
15 now apply to the Court for approval of attorneys' fees
16 and costs.

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II. LEGAL STANDARD

19 Attorney's fees in a section 1983 case are governed
20 by 42 U.S.C. section 1988, which provides: "In any
21 action or proceeding to enforce a provision of section[]
22 . . . 1983 . . . the court, in its discretion, may allow
23 the prevailing party . . . a reasonable attorney's fee as
24 part of the costs" 42 U.S.C. § 1988(b). "The
25 purpose of § 1988 is to ensure effective access to the
26 judicial process for persons with civil rights

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1 grievances." Hensley v. Eckerhart, 461 U.S. 424, 429
2 (1983) (quotation marks omitted).

3
4 The analysis of an attorney's fee award is twofold.
5 The Court must first determine whether or not the party
6 seeking fees is the prevailing party. Fischer v. SJB-
7 P.D., Inc., 214 F.3d 1115 (9th Cir. 2000). A plaintiff
8 is the prevailing party when the legal relationship
9 between the parties is altered so that "the plaintiff can
10 force the defendant to do something he otherwise would
11 not have to do" - such as pay a settlement. Id. at 1118.
12 A plaintiff may be the prevailing party though he
13 settles, rather than prevails at trial. See Maher v.
14 Gagne, 448 U.S. 122, 129-30 (1980).

15
16 Next, the Court determines whether or not the amount
17 requested is a reasonable one. Fischer, 214 F.3d at
18 1115. "In determining a reasonable attorney's fee, the
19 district court's first step is to calculate a 'lodestar'
20 by multiplying the number of hours it finds the
21 prevailing party expended on the litigation by a
22 reasonable hourly rate. . . In determining what
23 constitutes a reasonable fee, the district court should
24 take into account the factors set forth in Kerr v. Screen
25 Extras Guild, Inc., 526 F.2d 67, 69-70 (9th Cir. 1975)."
26 McGrath v. County of Nevada, 67 F.3d 248, 252 (9th Cir.
27 1995). Then, Court decides whether to increase or

28

1 decrease the lodestar amount by evaluating those Kerr
2 factors "not already subsumed in the initial
3 calculation." McGrath, 67 F.2d at 252.

4
5 The Kerr factors are: time and labor required; the
6 novelty and difficulty of the questions involved; the
7 skill needed to perform the legal service properly; the
8 preclusion of other employment by the attorney due to
9 acceptance of the case; the customary fee, whether the
10 fee is fixed or contingent²; time limitations imposed by
11 the client or the circumstances; the amount involved and
12 the results obtained; the experience, reputation, and
13 ability of the attorney; the "undesirability" of the
14 case; the nature and length of the professional
15 relationship with the client; and awards in similar
16 cases. Id.

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18 **III. DISCUSSION**

19 Here Plaintiffs are the prevailing parties because
20 they may now force the Defendants to pay the settlement
21 amount, so long as the Settlement Agreement receives
22 final approval. See Fischer, 214 F.3d at 1119.

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²Although this factor is mentioned in Kerr the Court
27 does not consider it as the Supreme Court disapproved of
28 this practice in City of Burlington v. Dague, 505 U.S.
557 (1992) (attorneys' fees under Solid Waste Disposal
Act and the Clean Water Act).

1 The Court must determine a reasonable fees award
2 based on the reasonable hourly rate for class counsel and
3 the number of hours spent. The requests of three firms
4 are now before the Court: (1) the American Civil
5 Liberties Union Foundation ("ACLU"); (2) Hadsell Stormer
6 Keeny Richardson & Rennick ("Hadsell Stormer"); (3) Bahan
7 & Associates. Attorneys' fees and costs are to be paid
8 from a fund of \$1,210,000. Defendants have agreed not to
9 oppose any request for attorneys' fees so long as the
10 amount sought is 50% or less of the total settlement.
11 (Mot. 4.) Defendants have not objected to the requested
12 attorneys' fees.

13
14 Here, the requests of Bahan & Associates, the ACLU,
15 and Hadsell Stormer, including anticipated future bills,
16 and excluding costs, exceed the available funds. As
17 discussed at the April 6, 2009 hearing, the Court
18 presumes class counsel will appropriate amongst
19 themselves the difference between the amounts awarded and
20 the fund available.

21
22 The Court has reviewed in detail all of the
23 declarations submitted by and on behalf of the attorneys
24 and other billing professionals, as well as all other
25 supporting evidence regarding market rates, the
26 attorneys' experience, expertise, and reputations and all
27 other factors relevant under Kerr. Many of the counsel
28

1 at the ACLU, Hadsell Stormer, and Bahan & Associates have
2 stellar educational and employment histories and have
3 been recognized with various awards for their work.
4 Considering the rate prevailing in the Central District
5 for similar work performed by attorneys of comparable
6 skill, experience, and reputation, the Court finds the
7 billing rates set forth below reasonable.

8
9 The Court also has reviewed and analyzed the tasks
10 described in every monthly billing summary submitted.
11 After doing so, the Court finds it appropriate to reduce
12 the number of hours for which Plaintiffs seek to recover
13 attorneys' fees. Specifically, the Court reduces fees
14 for tasks for which excessive time was spent, such as on
15 basic research performed by student interns, for tasks of
16 a secretarial nature, and tasks the Court deems
17 unnecessary, duplicative, or excessive.

18
19 The Court awards class counsel an additional \$30,000
20 for preparation and appearance at the hearing on the
21 motion for final approval, distribution of funds to class
22 members, and other tasks reasonably related to obtaining
23 payment for the class. The Court presumes class counsel
24 will appropriate this amount among themselves.

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1 **1. ACLU**

2 The ACLU seeks \$567,246.50 in attorneys' fees
3 incurred before the April 6, 2009, hearing, and
4 \$42,013.28 for fees incurred since. For the reasons
5 explained below, the Court awards the ACLU \$513,520.

6
7 The Court approves Eliasberg's work at \$500 per hour
8 and approves 682.1 hours' work for a total of \$341,050.

9
10 The ACLU seeks compensation for Ahilan Arulanantham's
11 work at \$425 per hour; the Court approves \$400 as a
12 reasonable rate, 75.6 as a reasonable number of hours,
13 and \$30,240 as a reasonable total fee for his work.

14
15 The Court approves Peter Bibring's ("Bibring") work
16 at the ACLU at the rate of \$375 per hour as requested;
17 Lori Rifkin's ("Rifkin") work at \$335 per hour as
18 requested; and the work of experienced ACLU paralegals at
19 \$175 per hour as requested. The Court finds Bibring
20 reasonably spent 166.2 hours on this matter; that Rifkin
21 reasonably spent 100 hours, and that experienced
22 paralegals at the ACLU reasonably spent 138.61 hours.
23 Accordingly, the total approved fee for Bibring's work at
24 the ACLU is \$62,325; for Rifkin, \$33,500.00; and for the
25 experienced paralegals \$24,256.75.

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1 The ACLU has requested compensation for the work of
2 law students at \$200 per hour. The Court awards the ACLU
3 \$135 per hour for the work of the students. The Court
4 finds the law students reasonably spent a total of 117.4
5 hours on this matter, and awards a fee of \$15,849 for
6 their work.

7
8 The ACLU also seeks compensation at the rate of \$695
9 per hour for 10.5 hours of work by Professor Allan Ides
10 ("Ides"), who assisted with writing a portion of a brief.
11 The Court finds \$600 to be the reasonable hourly rate for
12 Ides. The Court approves all of his 10.5 hours as
13 reasonable. The ACLU shall be awarded \$6,300 for his
14 work.

15
16 **2. Hadsell Stormer**

17 Hadsell Stormer seeks \$587,163.65 in attorneys' fees
18 for work before the Court's April 6, 2009 hearing and
19 \$48,222 for work since, a total of \$635,385.65. (Mot.
20 15.) The Court awards Hadsell Stormer \$607,768 in
21 attorneys' fees.

22
23 The Court finds \$700 per hour is a reasonable rate
24 for Dan Stormer's ("Stormer") work. Stormer demonstrates
25 exceptional qualifications and experience and provides
26 evidence his requested rate of \$800 is within the range
27 of billing rates at the 250 largest Los Angeles firms.

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1 Stormer shows several courts have granted fee requests
2 for attorneys of his skill and experience in the \$700 to
3 \$800 range. The Court finds 322.5 of Stormer's hours
4 reasonably spent and accordingly awards Hadsell Stormer
5 \$225,750 for his work.

6
7 Hadsell Stormer requests compensation for Anne
8 Richardson's ("Richardson") work at the rate of \$575 per
9 hour. The Court finds compensation at \$550 per hour
10 reasonable and that she reasonably spent 399.6 hours on
11 this matter. Accordingly, the Court awards \$219,780 for
12 Richardson's work.

13
14 Likewise, the Court finds the reasonable rate for
15 Lisa Holder's ("Holder") work is \$375, that Holder
16 reasonably spent 161.68 hours on this matter, and that
17 Hadsell Stormer shall be awarded \$60,630 for Holder's
18 efforts.

19
20 The Court finds the requested \$275 per hour
21 compensation for Nagwa Ibrahim's ("Ibrahim") work, and
22 \$250 per hour for Radhika Sainath's ("Sainath") work,
23 reasonable. The Court approves 56 hours of Ibrahim's
24 time as reasonably spent on this matter and likewise
25 finds 78.1 of Sainath's time compensable. The Court
26 accordingly awards \$15,400 for Ibrahim's work and \$19,525
27 for Sainath's labors.

28

1 The Court declines to award Hadsell Stormer \$200 per
2 hour for the work of law students. (See Richardson Decl.
3 ¶ 13.) Rather, the Court finds compensation at the rate
4 of \$135 per hour reasonable, finds law students
5 reasonably worked 35.8 hours on his matter and awards
6 \$4,833 for their work.

7
8 The Court approves Hadsell Stormer's request for \$175
9 per hour for experienced paralegals, finds 200 hours'
10 work reasonable, and awards \$35,000 for their work.

11
12 Likewise, the Court approves \$150 per hour for mid-
13 level paralegals at Hadsell Stormer, as requested, finds
14 42 of their hours were reasonably spent on this matter,
15 and awards \$6,300 for their work.

16
17 As to entry-level paralegals at Hadsell Stormer, the
18 Court finds \$100 per hour for their work reasonable,
19 finds they reasonably worked 205.5 hours on this matter,
20 and awards Hadsell Stormer \$20,550.00 for their work.

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22 **3. Bahan & Associates**

23 Bahan & Associates requests \$140,044.25 in attorneys'
24 fees. (Bahan Decl. ¶ 15.) The Court approves
25 \$128,475.00.

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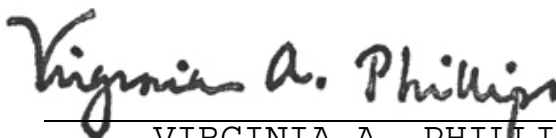
1 The Court finds \$600 to be the reasonable hourly
2 compensation for Bahan, as stated in the tentative
3 ruling, based on her decades of experience and record of
4 success with multi-million dollar settlements in
5 employment cases. The Court finds she reasonably spent
6 68 hours on this case and awards Bahan & Associates
7 \$40,800 for her work.

8
9 The Court awards Bahan & Associates \$375 per hour for
10 the work of Puja Batra in light of the relative dearth of
11 information about her work. She reasonably spent 97.2
12 hours on this matter, so Bahan & Associates is awarded
13 \$36,450. The Court awards fees for Bibring's work at the
14 rate of \$375 per hour, as requested, and approves 136.6
15 of his hours at Bahan & Associates; the reasonable fee
16 for his labors is \$51,255.00.

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18 **IV. CONCLUSION**

19 The Court GRANTS the Motion for Attorneys Fees filed
20 on behalf of the ACLU, Hadsell Stormer, and Bahan &
21 Associates ON THE CONDITION THAT the Court grants final
22 approval to the Settlement Agreement.

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24 Dated: June 11, 2009



VIRGINIA A. PHILLIPS
United States District Judge

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