

No. 07 – 15763 [DC# CV 99-4389-MJJ]

IN THE
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

RUSSELL ALLEN NORDYKE; et al.,
Plaintiffs - Appellants,

vs.

MARY V. KING; et al.,
Defendants - Appellees.

APPEAL FROM THE
UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

**SUPPLEMENTAL DECLARATION OF DONALD KILMER
IN SUPPORT OF MOTION FOR ATTORNEY'S FEES
AND COSTS, MOTION FOR DAMAGES UNDER 28 U.S.C. § 2202,
AND/OR SANCTIONS AGAINST APPELLEES**
[Correction of Attorney Hours]

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Counsel for Plaintiff - Appellants

Co-Counsel for Plaintiff - Appellants

**Counsel of Record*

DECLARATION OF DONALD KILMER

I, Donald Kilmer, declare the following based on my own personal knowledge and a diligent review of the records kept at my firm in the normal course of business.

1. On June 22, 2012, I filed a declaration in support of attorney fees, costs and sanctions. (DkEntry 273-2). In paragraph 16.c. I set forth my billable hours from February 2005 to June of 2012 as taken from my billing records as set forth in Attachment #3.
2. Attachment # 3 (DkEntry 273-5) to that declaration sets forth my actual billing records from February 2005 to June 2012.
3. I inadvertently included staff time as attorney time.
4. The corrected attorney time for the period in question is 1393.60 hours, not the 1624.11 hours originally stated, and thus total attorney time for Donald Kilmer that was spent on this case should be revised downward by 230.51 hours.
5. The total revised hours for Attorney Kilmer are 2429.6 instead of 2660.11.
6. The request for compensation of staff time should remain as set forth in the billing statement in Attachment #3. (DkEntry 273-5)

I declare under penalty of perjury, under the laws of California and the United States that the foregoing is true and correct and that this declaration was executed in San Jose, California on June 23, 2012.

Respectfully Submitted,

/s/ Donald Kilmer

Donald Kilmer, Attorney for Appellants.

CERTIFICATE OF SERVICE

On June 23, 2012, I served the foregoing **SUPPLEMENTAL DECLARATION OF DONALD KILMER IN SUPPORT OF MOTION FOR ATTORNEY'S FEES AND COSTS** or in the **alternative SANCTIONS AGAINST APPELLEE** [Correct of Attorney Hours] by electronically filing it with the Court's ECF/CM system, which generated a Notice of Filing and effects service upon counsel for all parties in the case. [By agreement, hard-copy service of County Counsel Richard Winnie has been previously waived by T. Peter Peirce, Attorney of Record for Appellees.]

I declare under penalty of perjury that the foregoing is true and correct.

Executed this June 23, 2012,

/s/ Donald Kilmer

Attorney of Record for Appellants