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

10 NATIONAL RIFLE ASSOCIATION OF
11 AMERICA; JOHN DOE,

12 Plaintiffs,

13 vs.

14 CITY OF LOS ANGELES; ERIC
15 GARCETTI, in his official capacity as
Mayor of City of Los Angeles; HOLLY
16 L. WOLCOTT, in her official capacity as
City Clerk of City of Los Angeles; and
17 DOES 1-10,

18 Defendants.
19

Case No.: 2:19-cv-03212 SVW (GJSx)

**PLAINTIFFS’ MEMORANDUM
OF POINTS AND AUTHORITIES
IN SUPPORT OF MOTION FOR
ATTORNEYS’ FEES AWARD
PURSUANT TO 42 U.S.C. § 1988**

Hearing Date: June 15, 2020
Hearing Time: 1:30 p.m.
Judge: Stephen V. Wilson
Courtroom: 10A

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1 **INTRODUCTION**

2 The civil rights fee-shifting provision, 42 U.S.C. § 1988, seeks to ensure that
3 civil rights claimants can adequately attract qualified representation. These lawsuits
4 are essential to the vindication of civil rights abuses but, absent a fee award, they are
5 often infeasible. Indeed, “[t]he attorney’s fee award has systemic value in
6 encouraging litigation that enforces constitutional norms . . . shared by everyone.
7 Thomas A. Eaton & Michael Wells, *Attorney’s Fees, Nominal Damages, and Section*
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9 This litigation challenged Defendant City of Los Angeles’ enactment and
10 enforcement of Ordinance No. 186000, a controversial local law mandating that all
11 current and prospective city contractors disclose any “sponsorship of” or “contract
12 with” Plaintiff National Rifle Association. Seeking declaratory and injunctive relief,
13 Plaintiffs NRA and John Doe sued the City because the ordinance violated their
14 fundamental rights of free speech, free association, and equal protection under the
15 law. Plaintiffs secured an important vindication of their rights when the Court entered
16 an order largely rejecting the City’s motion to dismiss and preliminarily enjoining the
17 City from enforcing its disclosure mandate.

18 Not long after, the City fully repealed its ordinance, the parties settled their
19 dispute, and the Court entered a judgment incorporating the preliminary injunction
20 order--cementing Plaintiffs’ prevailing party status. In successfully suing the City,
21 Plaintiffs have ensured that no person must fear the compelled disclosure of their
22 viewpoints and associations in order to do business with the City. Plaintiffs are thus
23 entitled to an award of reasonable attorneys’ fees under section 1988.

24 Plaintiffs’ fee motion is supported by the detailed declarations and billing
25 records of their counsel, showing that all the time for which Plaintiffs seek recovery
26 was reasonably spent. It is also supported by case law from this district and evidence
27 that the hourly rates Plaintiffs’ counsel charge are well within the range of rates found
28 reasonable for attorneys practicing in the Los Angeles area. Ultimately, the amount

1 Plaintiffs request, adjusted upward by a 1.25 multiplier, reflects the rates of
2 comparable attorneys in the community and the risk of taking on this case, the
3 limitations imposed under the circumstances, and the exceptional results achieved for
4 Plaintiffs and the public. The Court should grant Plaintiffs’ motion.

5 **STATEMENT OF FACTS**

6 **I. THE CHALLENGED ORDINANCE AND THE DISPUTE**

7 The state of California has one of the most rigorous regulatory schemes for gun
8 policy and the commerce in firearms of any state in the nation. Many California cities
9 still compete to be “leaders” in gun control, passing ever-expanding restrictions on
10 the lawful acquisition, ownership, and possession of firearms and ammunition,
11 regardless of the laws’ impact on public safety and welfare. Los Angeles is a leader
12 among these cities. It is often the target of gun-control groups whose goal is to limit
13 the rights of gun owners. And City officials often oblige, championing a broad gun-
14 control agenda. For instance, the City has passed laws prohibiting the possession of
15 so-called “large capacity magazines” and requiring locked storage of firearms in the
16 home. Req. Jud. Notice Supp. Pls.’ Mot. Attys.’ Fees (“Req. Jud. Ntc.”) Exs. J-K.
17 Many NRA members and supporters disagree with the sweeping gun-control policies
18 the City seeks to implement, so NRA stands in the gap for its members who see no
19 other group with comparable ability to promote their pro-Second Amendment beliefs,
20 including belief in the right to self-defense.

21 City councilmembers have made disparaging, false, and hyperbolic statements
22 about NRA and its supporters, suggesting that the organization engages in unlawful
23 conduct. Councilmember Mitchell O’Farrell, the Ordinance’s sponsor, has repeatedly
24 called on the City to “rid itself” of those associated with NRA and labelled the NRA
25 an “extremist” and “white supreme [sic] peddling” group. Req. Jud. Ntc. Exs. M, O.¹
26 The City itself has a shameful history of pressuring businesses that seek to do

27 ¹ See also Councilmember Mitchell O’Farrell, Remarks at Meeting of Los
28 Angeles City Council (“O’Farrell Remarks”) at 1:33:39-1:35:24 (Feb. 12, 2019),
http://lacity.granicus.com/MediaPlayer.php?view_id=129&clip_id=18753.

1 business in the City to end relationships with NRA. For example, in early 2018, the
2 City held up a contract with FedEx to operate a warehouse and office space in the
3 City based solely on FedEx's affinity discount program for NRA members. See Decl.
4 of Anna M. Barvir Supp. Pls.' Mot. Prelim. Inj. Ex. 23, ECF No. 19-2.

5 Around the same time, O'Farrell introduced a motion before the Budget &
6 Finance Committee, expressing the urgent need to act against NRA and its
7 supporters. Req. Jud. Ntc. Ex. M. The motion called on city staff to draft a report
8 listing all organizations with formal ties to NRA and "options for the City to
9 immediately boycott those businesses and organizations until their formal
10 relationship with the NRA ceases to exist." *Id.* The committee approved the motion to
11 "rid itself of its relationships with any organization that supports the NRA." *Id.* at
12 Exs. M-N. The City Council ultimately abandoned the March 2018 resolution.

13 Still bent on silencing NRA's voice, as well as the voices of all those who
14 oppose the City's broad gun-control agenda, O'Farrell brought another motion to the
15 Budget & Finance committee, seeking to force companies doing business with the
16 City to disclose any formal relationships with NRA. *Id.* at Ex. O. The September
17 2018 motion called on the City Attorney to draft an ordinance requiring contractors to
18 disclose "(1) any contracts [the contractor] or any of its subsidiaries has with the
19 National Rifle Association; and (2) any sponsorship it or any of its subsidiaries
20 provides to the National Rifle Association." *Id.* The motion spoke of the perceived
21 advantage the NRA has in promoting its beliefs because of the financial support of
22 members and donors. *Id.* The motion passed committee, *id.* at Ex. 5, before moving to
23 the full City Council, which unanimously voted to adopt the motion, *id.* at Ex. 7.

24 In January 2019, the City Attorney presented the draft ordinance, requiring all
25 prospective City contractors to disclose in an affidavit any "sponsorship" of or
26 "contract" with NRA. *Id.* at Ex. 8. The City unanimously passed the proposal with
27 little discussion. *Id.* at Ex. 9. Mayor Eric Garcetti signed the Ordinance, *id.*, and the
28 law took effect, *id.* at Ex. 3, at 7.

1 **II. PROCEDURAL HISTORY**

2 Plaintiffs sued the City seeking declaratory and injunctive relief because the
3 Ordinance violated their First Amendment rights to free speech, expression, and
4 association, and offended the Equal Protection Clause of the United States
5 Constitution. Compl. ¶¶ 12-26. (April 24, 2019), ECF No. 1.

6 Plaintiffs soon moved to enjoin the City from enforcing the Ordinance while
7 the parties litigated the case, arguing that Plaintiffs’ fundamental rights were being
8 irreparably harmed every minute the City enforced the law. Pls.’ Mot. Prelim. Inj. at
9 20. (May 24, 2019), ECF No. 19. Plaintiffs’ briefing detailed the many reasons
10 Plaintiffs were likely to succeed on the merits, raising important constitutional
11 questions implicating the First Amendment and equal protection. Pls.’ Mem. Supp.
12 Mot. Prelim. Inj. at 7-19. (May 24, 2019), ECF No. 19-1. The City opposed
13 Plaintiffs’ motion, and Plaintiffs’ replied. Defs.’ Opp’n Pls.’ Mot. Prelim. Inj. (June
14 26, 2019), ECF No. 23; Pls.’ Reply Defs.’ Opp’n Mot. Prelim. Inj. (July 8, 2019),
15 ECF No. 25.

16 While the parties were briefing Plaintiffs’ injunction motion, the City also
17 moved to dismiss Plaintiffs’ complaint, arguing that Plaintiffs’ claims each “fail as a
18 matter of law.” Defs.’ Mem. Supp. Mot. Dismiss 4-16 (May 24, 2019), ECF No. 15.
19 The City also argued that Plaintiffs had not brought “as-applied” challenges to the
20 Ordinance and that the individual defendants should be dismissed as unnecessary
21 parties. *Id.* at 5-6, 20-21. Plaintiffs opposed the City’s motion, and the City replied.
22 Pls.’ Opp’n Defs.’ Mot. Dismiss (June 26, 2019), ECF No. 24; Defs.’ Reply Pls.’
23 Opp’n Mot. Dismiss (July 8, 2019), ECF No. 26.

24 The Court heard oral argument on both motions. Civil Minutes (Aug. 12,
25 2019), ECF No. 29. The Court tentatively denied the City’s motion to dismiss. *Id.* But
26 instead of ruling on Plaintiffs’ preliminary injunction motion or taking it under
27 submission, the Court continued the hearing and invited the parties to file
28 supplemental evidence, if they found it necessary. *Id.*; Rptr.’s Tr. 18:12-21:24 (Aug.

1 12, 2019). Persuaded that Plaintiffs had met their burden to prove they were likely to
2 succeed on the merits of their constitutional claims and that the City had failed to
3 meet its burden on reply, Plaintiffs elected not to file supplemental material. Decl.
4 Barvir Decl. ¶ 104. To be safe, however, they prepared a motion to file a sur-reply if
5 the City’s filing exceeded the scope of what the Court authorized the parties to
6 submit. *Id.* The City ultimately opted not to file anything at all, so Plaintiffs
7 abandoned the filing. *Id.* The Court then took the continued hearing off calendar. In
8 Chambers Order Re: Pls.’ Mot. Prelim. Inj. (Sept 9, 2019).

9 In mid-December, the Court granted Plaintiffs’ motion for preliminary
10 injunction and denied in part and granted in part the City’ motion to dismiss. Order
11 (“MPI Order”) (Dec. 11, 2019), ECF No. 34.² Over the City’s strident objection, the
12 Court expressed no doubt that the Ordinance was a content-based speech restriction
13 subject to strict scrutiny. *Id.* at 6. In accord with Supreme Court directives to assess
14 whether disagreement with speech is the reason behind a regulation, the Court found
15 that the record clearly “evince[d] a strong intent to suppress the speech of the NRA.”
16 *Id.* at 9. The Court also noted that “the City cannot make a reasonable argument that
17 the Ordinance is narrowly tailored to serve a compelling government interest, before
18 holding that “Plaintiffs are likely to be successful on the merits of their First
19 Amendment speech claims.” *Id.* at 13-14. As for Plaintiffs’ freedom of association
20 claim, the Court held that “the record here supports Plaintiffs’ contention that the
21 purpose of the Ordinance is to deter association with the NRA [and] [b]ecause the
22 City has no legitimate interest in the Ordinance, Plaintiffs will likely be successful on
23 their freedom of association claims.” *Id.* at 18.

24 The Court also denied the City’s motion to dismiss as to the City’s challenge to
25 Plaintiffs’ retaliation theory, but dismissed Plaintiffs’ compelled speech and equal
26 protection theories, finding the latter “duplicative” of Plaintiffs’ First Amendment
27

28 ² The Court later corrected its order granting Plaintiffs’ motion for preliminary
injunction, making several clerical corrections. Order (Dec. 16, 2019), ECF No. 36.

1 claims. *Id.* at 25. It also dismissed Mayor Garcetti and Clerk Wolcott, finding their
2 inclusion unnecessary because the presence of the municipal entity was enough to
3 achieve Plaintiffs’ desired relief. *Id.* at 26.

4 About a week later, the Court issued a Civil Trial Preparation Order, setting
5 trial for February 25, 2020, the pretrial conference for February 10, 2020, and a
6 January 21, 2020 deadline for pretrial filings. Order (Dec. 17, 2019), ECF No. 37.
7 The City would not answer the complaint until December 24, 2019. Answer (Dec. 24,
8 2019), ECF No. 38. Plaintiffs then immediately served written discovery on the City
9 and various third parties to comply with the Court’s tight trial schedule and to weigh
10 whether settlement of the parties’ dispute would be possible. Barvir Decl. ¶ 107.

11 On January 21, 2020, the City repealed the Ordinance, prompting parties to
12 negotiate a timely end to the litigation. *Id.* ¶ 108; *see also* Stip. & Prop. Stip.
13 Judgment (“Stip.”) 2 (Jan. 31, 2020), ECF No. 45. But because this was the day the
14 parties’ pretrial filings were due and settlement was not yet final, Plaintiffs had to
15 prepare and file their Exhibit List, Witness List, and Memorandum of Contentions of
16 Fact and Law. Barvir Decl. ¶ 108. And because settlement was still not final a week
17 later, they also had to prepare to file the Joint Pre-trial Conference Order due on
18 January 30, 2020. *Id.*³

19 The parties’ settlement efforts eventually led to a stipulation and proposed
20 stipulated judgment. Among other things, the parties agreed that “in the event [an
21 attorneys’ fee motion] is filed, Defendant will not dispute Plaintiffs’ entitlement to
22 fees and costs, but expressly reserves the right to contest the amount of attorney’s
23 fees and costs that should be awarded.” Stip. 3. The Court entered an order adopting
24 the stipulation and stipulated judgment. Order (Feb. 5, 2020), ECF No. 48.

25 The parties engaged in negotiations over attorneys’ fees and litigation costs but
26 could not reach an agreement. Barvir Decl. ¶ 108. So, under FRCP 54 and the
27

28 ³ That document was ultimately not filed because the parties had come to terms
over settlement in principle.

1 Stipulation, Plaintiffs bring this timely motion for 42 U.S.C. § 1988 attorneys' fees.

2 **III. PLAINTIFFS' WORK ON THIS CASE**

3 To bring this case to its extraordinarily successful conclusion, Plaintiffs'
4 counsel performed the reasonably necessary work set forth below:⁴

5 Complaint & Building the Case: In bringing this case, Plaintiffs' counsel
6 logged about 136.0 hours tracking and opposing the Ordinance, compiling
7 background information, facts, and evidence to support their claims, corresponding
8 with clients, conducting legal research, analyzing the many theories under which they
9 could bring this challenge, and drafting, editing, and revising the complaint. Barvir
10 Decl. ¶¶ 46-54, Ex. C; Brady Decl. ¶ 12; Chevront Decl. ¶ 12; Frank Decl. ¶ 12;
11 Michel Decl. ¶ 25; Palmerin Decl. ¶ 8; Villegas Decl. Ex. A.

12 Motion Practice: Plaintiffs also billed 479.2 hours on motion practice,
13 including successfully litigating Plaintiffs' preliminary injunction motion and
14 opposing Defendants' motion to dismiss. Barvir Decl. ¶ 55, Ex. C; Villegas Decl. Ex.
15 A. This critical phase of the litigation involved extensive drafting, review, and
16 revision of Plaintiffs' moving, opposition, and reply papers, as well as all supporting
17 documents. *Id.* ¶¶ 56-65; Brady Decl. ¶ 13; Chevront Decl. ¶ 13; Frank Decl. ¶ 13;
18 Palmerin ¶ 9; Villegas Decl. Ex. A. It also involved follow-up legal and factual
19 research and analysis, begun during the complaint-preparation phase, to flesh out
20 Plaintiffs' legal arguments and theories. Barvir Decl. ¶¶ 55-65; Chevront Decl. ¶ 13;
21 Frank Decl. ¶ 13; Villegas Decl. Ex. A. Plaintiffs' counsel also devoted time to
22 preparing for and appearing for oral argument. Barvir Decl. ¶¶ 60-61; Brady Decl. ¶
23 13; Chevront Decl. ¶ 13; Villegas Decl. Ex. A.

24 The significant expenditure of attorney attention here was required because of
25 the importance of mounting as strong a case as possible during the motions phase.
26 Plaintiffs' attorneys correctly predicted that a decisive victory at the preliminary

27 _____
28 ⁴ A table of all the hours for which Plaintiffs seek compensation is Exhibit C to
the declaration of Anna M. Barvir. The declaration of each professional also provides
descriptions of their qualifications, rates, and activities.

1 injunction stage would likely eliminate having to prosecute the case further to reach
2 the desired outcome—repeal of the ordinance.

3 Discovery: Plaintiffs seek recovery for just 17.9 hours devoted to the discovery
4 phase of litigation. Barvir Decl. ¶ 66, Ex. C; Villegas Decl. Ex. A. This includes
5 several hours preparing requests to government actors for case-relevant public
6 records under the California Public Records Act, as well as receiving, reviewing, and
7 analyzing the responses for potential use in litigation. Barvir Decl. ¶¶ 66-72; Brady
8 Decl. ¶ 14; Chevront Decl. ¶ 14; Michel Decl. ¶ 27; Villegas Decl. Ex. A. Plaintiffs
9 also billed some time for preparing initial disclosures, the FRCP 26 report, and
10 written discovery requests to the City and various third-party government actors.
11 Barvir Decl. ¶¶ 68-71; Chevront Decl. ¶ 14; Palmerin Decl. ¶ 10; Villegas Decl. Ex.
12 A.

13 Settlement: Plaintiffs’ counsel billed about 111.7 hours during the settlement
14 phase of litigation. Barvir Decl. ¶ 73, Ex. C; Villegas Decl. Ex. A. The settlement
15 phase involved regular communication, through email, telephone, and other written
16 correspondence, with opposing counsel and the clients. Barvir Decl. ¶¶ 74-77; Brady
17 Decl. ¶ 15; Dale Decl. ¶ 19; Michel Decl. ¶ 28; Villegas Decl. Ex. A. It also involved
18 considerable legal research and writing, as well as regular team meetings to explore
19 strategies for, and assess the viability of, settlement and to develop a plan for advising
20 the clients. Barvir Decl. ¶¶ 74-82; Brady Decl. ¶ 15; Dale Decl. ¶ 19; Frank Decl. ¶
21 14; Michel Decl. ¶ 28; Moros Decl. ¶ 10; Villegas Decl. Ex. A.

22 The significant investment of attorney time here was, in large part, because of
23 the clients’ need to fully understand the details, from both short- and long-term
24 perspectives, of the different pathways to resolution. Barvir Decl. ¶ 109. Given the
25 broader First Amendment significance of the case, as well as the number of
26 ambiguous legal issues demanding in-depth research and analysis, Plaintiffs’ counsel
27 was called to invest considerable time to fully understand and advise their clients on
28 the broader impact of settlement and the best course to realizing their goals. *Id.*

1 but the most unusual circumstances. *Williams v. Hanover Hous. Auth.*, 113 F.3d
2 1294, 1300 (1st Cir. 1997). So under the Supreme Court’s “generous formulation” of
3 the term “prevailing party,” “plaintiffs may be considered ‘prevailing parties’ for
4 attorney’s fees purposes if they succeed on *any* significant issue in litigation which
5 achieves some of the benefit the parties sought in bringing suit.’ ” *Farrar v. Hobby*,
6 506 U.S. 103, 111-12 (1992) (quoting *Hensley v. Eckerhart*, 461 U.S. 424, 433
7 (1983)) (emphasis added). Indeed, when “actual relief on the merits of [plaintiffs’]
8 claim materially alters the legal relationship between the parties by modifying the
9 defendant’s behavior in a way that directly benefits the plaintiff,” the plaintiff
10 prevails. *Id.*

11 Here, the parties have stipulated that “Defendant will not dispute Plaintiffs’
12 entitlement to fees and costs.” Stip. & Prop. Stip. Judgment at 3. But even so,
13 Plaintiffs are the prevailing party under section 1988. They successfully challenged
14 the constitutionality of the City’s controversial disclosure mandate, obtaining an
15 overwhelmingly favorable order granting temporary relief that prompted the City to
16 repeal the challenged law and the parties to settle the dispute. *See Higher Taste, Inc.*
17 *v. City of Tacoma*, 717 F.3d 712 (9th Cir. 2013).

18 **II. PLAINTIFFS’ ATTORNEYS’ FEES CLAIM REPRESENTS A REASONABLE**
19 **VALUATION OF THE TIME SPENT BY PLAINTIFFS’ COUNSEL**

20 When a party is entitled to attorneys’ fees under section 1988, courts calculate
21 the amount of the award per the “lodestar/multiplier” method, by which the base fee
22 or “lodestar” is determined by multiplying a reasonable hourly rate by the number of
23 hours reasonably expended. *Ferland v. Conrad Credit Corp.*, 244 F.3d 1145, 1149 n.
24 4 (9th Cir. 2001); *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983). This figure
25 “provides an objective basis on which to make an *initial estimate* of the value of a
26 lawyer’s services.” *Hensley*, 461 U.S. at 433 (emphasis added). To fix the fee at the
27 fair market value of the specific legal services provided, courts may then enhance the
28 lodestar by a multiplier after analyzing other factors. *Id.* at 448-49.

1 Plaintiffs seek compensation for 865.8 hours of work on the merits by several
2 attorneys with varying levels of experience, three law clerks working at different
3 points throughout the case, and one paralegal. Plaintiffs also seek a 1.25 multiplier for
4 work on the merits and \$44,983.00 for work on this fee motion, for an award totaling
5 \$472,760.50. Considering the experience and reputation of Plaintiffs’ attorneys and
6 the extraordinary outcome of this case, these numbers represent a reasonable award.

7 **A. Plaintiffs’ Schedule of Hourly Rates Are Reasonable**

8 Plaintiffs request the following hourly rates for each billing professional
9 assigned to work on this case:

Billing Professional	Title	Rate
C.D. Michel	Senior Partner	\$ 650.00
Joshua R. Dale	Managing Partner	\$ 550.00
Anna M. Barvir	Associate 6/Special Counsel/Partner	\$ 475.00
Sean A. Brady	Associate 6/Special Counsel/Partner	\$ 475.00
Konstadinos T. Moros	Associate 4	\$ 375.00
Alexander A Frank	Associate 3/Associate 4	\$ 350.00
Tiffany D. Chevront	Associate 2	\$ 325.00
Imran H. Khundkar	Staff Attorney	\$ 300.00
Laura Palmerin	Paralegal	\$ 170.00
Law Clerks	Law Clerks	\$ 170.00

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16 For the reasons described below, these rates are appropriate, and the Court
17 should use them with assessing the appropriate lodestar for this case.

18 **1. Prevailing Market Rates in the Relevant Legal Community**

19 To determine the reasonability of counsel’s hourly rates, courts look to the
20 “prevailing market rates in the relevant community, regardless of whether plaintiff is
21 represented by private or nonprofit counsel.” *Blum v. Stevenson*, 465 U.S. 886, 895
22 (1994). This requires courts to decide what the “relevant community” is and what the
23 “prevailing market rates” are for that community. *Christensen v. Stevedoring Servs.*
24 *of Am.*, 557 F.3d 1049, 1053. (9th Cir. 2009). Plaintiffs’ attorneys bill rates
25 comfortably within the many rates the Central District has found to be reasonable for
26 attorneys practicing in the Los Angeles area. *See United States v. \$28,000 in*
27 *Currency*, 802 F.3d 1100, 1107 (9th Cir. 2015) (“[R]ate determinations in other cases
28 are satisfactory evidence of the prevailing market rate.”); *Barjon v. Dalton*, 132 F.3d

1 496, 500 (9th Cir. 1997) (“relevant community” is generally where the district court
2 in the matter sits).

3 For instance, as this Court recognized in *Curtin v. County of Orange*, C.D.
4 Case No. 16-cv-00591, the median hourly rate for Los Angeles area attorneys
5 involved in 1983 civil litigation is \$563.00 for attorneys with under 21 years’
6 experience and \$656.02 for attorneys with over 21 years’ experience. In Chambers
7 Order Re Renewed Motion for Attorneys’ Fees at 4-5, *Curtin v. County of Orange*,
8 No. 16-cv-00591 (C.D. Cal. April 13, 2018), ECF. No. 331; In Chambers Order Re
9 Renewed Motion for Judgment as a Matter of Law and Motion for Attorneys’ Fees at
10 23-24, *Curtin v. County of Orange*, No. 16-cv-00591, 2018 U.S. Dist. LEXIS 233110
11 (C.D. Cal. Jan. 31, 2018), ECF No. 323; Declaration of Gerald G. Knapton in Support
12 of Plaintiff’s Motion for Attorneys’ Fees at 9-11 & Ex. 2 at 89, 97, 102, *Curtin v.*
13 *County of Orange*, No. 16-cv-00591 (C.D. Cal. Aug. 22, 2017), ECF Nos. 290, 290-2
14 (attached to Barvir Decl. at Exhibit D).

15 Comparably, in *Chambers v. Whirlpool Corp.*, 214 F. Supp. 3d 877, 899 (C.D.
16 Cal. 2016), the Court held that hourly rates between \$485 and \$750 are “reasonable
17 and consistent with those charged by comparable attorneys in the Central District.”
18 The Court considered awards in other Central District cases and cited regional billing
19 rates from the 2014 National Law Journal survey: “standard partner rates among top
20 Los Angeles firms rang[e] from \$490 to \$975.” *Id.* (citing *Counts v. Meriwether*, No.
21 14-cv-00396, 2016 U.S. Dist. LEXIS 40651, *3-4 (C.D. Cal. 2016) (approving rates
22 of \$701.25, \$552.50, and \$446.25); *Rodriguez v. County of Los Angeles*, 96 F. Supp.
23 3d 1012, 1023 (C.D. Cal. 2014) (approving rates from \$500 to \$975).

24 Plaintiffs’ attorneys bill hourly rates at or significantly below these median
25 rates. Indeed, Mr. Michel, a senior partner with over 30 years’ experience, requests
26 \$650 an hour. Michel Decl. ¶ 16. Mr. Brady and Ms. Barvir, partners with 12- and
27 10-years’ experience litigating 1983 claims respectively, request just \$475 per hour
28 each. Barvir Decl. ¶ 22; Brady Decl. ¶ 9. As explained below, counsel’s experience

1 and niche expertise more than justify the hourly rates each attorney seeks.

2 **2. Plaintiffs' Counsel's Experience**

3 Senior Partner Michel: Mr. Michel, Senior Partner of Michel & Associates,
4 P.C. ("MAPC"), is a highly experienced constitutional and civil litigator, having
5 secured dozens of victories over a 30-year career. His reasonable hourly rate is
6 **\$650.00**. Michel Decl. ¶ 16; *see also Antuna v. County of Los Angeles*, No. 14-cv-
7 5600, 2016 U.S. Dist. LEXIS 189152, *10 (C.D. Cal. Mar. 8, 2016) (awarding
8 between \$600 and \$700 to senior partners with over 30 years' experience); *J.N. v.*
9 *Hendrickson*, No. 14-cv-02428, 2017 U.S. Dist. LEXIS 129927, *5-7 (C.D. Cal. Aug.
10 15, 2017) (awarding \$650 to 29-year attorney).

11 Mr. Michel received his J.D. from Loyola Law School and began to practice in
12 1989. *Id.* ¶ 4. He began practicing at O'Melveny & Meyers, LLP, and later served as
13 a criminal prosecutor, an advocate with the L.A. Federal Public Defender's office,
14 and special counsel to the Christopher Commission. *Id.* ¶ 5. Mr. Michel is one of the
15 nation's preeminent authorities on Second Amendment litigation as well as the
16 President of the California Rifle & Pistol Association, an active participant in pro
17 firearms litigation in state and federal courts. *Id.* ¶¶ 7, 12. His firm, MAPC, counsel
18 for Plaintiffs, has been at the forefront of many major firearm-related constitutional
19 legal challenges in California. *Id.* ¶¶ 7, 17.

20 Managing Partner Dale: The reasonable hourly rate for Mr. Dale, a civil
21 litigator with over 20 years of experience, is **\$550.00**. Dale Decl. ¶ 13; *see also*
22 *Kearney v. Hyundai Motor Am.*, No. 09-cv-1298, 2013 U.S. Dist. LEXIS 91636 (C.D.
23 Cal. June 28, 2013) (\$650 rate for attorney with over 20 years' experience). Mr. Dale
24 has a rich and diverse legal background. He has litigated many cases to trial verdict,
25 deposed nearly 150 witnesses, served as a panel neutral for the Los Angeles County
26 Superior Court's ADR panel, argued appeals in state and federal courts, has been
27 published in law reviews and trade journals, and often presents MCLE seminars. *Id.*
28 ¶¶ 3-7, 9, 11. Mr. Dale's vast experience and expertise in civil litigation was vital to

1 the successful outcome for Plaintiffs. Barvir Decl. ¶ 25.

2 Partners Barvir and Brady: The reasonable hourly rate for Ms. Barvir and Mr.
3 Brady is **\$475.00**. Barvir Decl. ¶¶ 22, 24; Brady Decl. ¶ 9.

4 Ms. Barvir graduated magna cum laude in 2009 from Whitter Law School,
5 where she served as Executive Editor of the Whittier Law Review. Barvir Decl. ¶ 2.
6 She was admitted to practice in California and hired by MAPC in January 2010. *Id.*
7 ¶¶ 3-4. Since then, she has focused mostly on civil litigation and appeals involving
8 legal challenges to firearm laws. *Id.* ¶¶ 5-6. She is an experienced constitutional
9 litigator, having secured victories in state and federal courts at both the trial and
10 appellate levels. *Id.* ¶¶ 5-10.

11 Recently, she was lead trial counsel in *Duncan v. Becerra*, 366 F. Supp. 3d
12 1131 (S.D. Cal. 2018), a successful challenge to California's ban on ammunition
13 magazines holding more than 10 rounds and arguably one of the most consequential
14 Second Amendment decisions since *McDonald v. City of Chicago*, 561 U.S. 742
15 (2010). *Id.* ¶ 7. As a young attorney, she was essential to the team that successfully
16 litigated *Parker v. California*, a vagueness challenge to the state's handgun
17 ammunition sales restrictions. *Id.* ¶ 10. *Parker* went to the California Supreme Court
18 before the Legislature amended the law and mooted the appeal. *Id.* The court awarded
19 Ms. Barvir \$225 per hour for work on the Fresno-based appeal as a second-year
20 attorney. *Id.* Ms. Barvir's experience litigating section 1983 matters also involves
21 First Amendment matters, often related to suppression of firearm-related speech.
22 Aside from this case, she is lead counsel in *B&L Productions, Inc. v. 22nd District*
23 *Agricultural Association*, S.D. Cal. Case No. 19-cv-00134 (S.D. Cal. June 25, 2019),
24 a successful First Amendment challenge to the DAA's ban on gun shows at the Del
25 Mar Fairgrounds. *Id.* ¶ 8.

26 Mr. Brady, also a Partner at MAPC, earned his J.D. from Western State
27 University College of Law and was admitted to practice in California in 2008. Decl.
28 Brady Decl. ¶ 2. He began practicing law at MAPC in 2009 and has practiced there

1 ever since. His focus is on civil litigation and appeals involving constitutional
2 challenges to firearm laws. *Id.* ¶ 4. Like Ms. Barvir, he too is a highly experienced
3 constitutional litigator, having secured victories in both state and federal court at both
4 the trial court and appellate levels. *Id.* ¶¶ 4-8. Most recently, Mr. Brady secured an
5 important win in a challenge to ammunition sales restrictions adopted by California
6 voters in 2016. *Id.* ¶ 6. The court, in a 120-page decision, granted plaintiffs' request
7 for preliminary relief, finding that the plaintiffs were likely to succeed on their claims
8 that the state's ammunition background check system and ban on out-of-state
9 purchases violated the Second Amendment and the Dormant Commerce Clause.
10 *Rhode v. Becerra*, No. 18-cv-802, 2020 U.S. Dist. LEXIS 71893, *108 (S.D. Cal.
11 April 23, 2020). That case is on appeal. *Id.*

12 Ultimately, Ms. Barvir and Mr. Brady are among just a handful of attorneys in
13 the country able to claim experiential expertise in constitutional firearms law. Given
14 their extensive and niche civil rights experience, their more than 10 years of relevant
15 legal work, and their record of success in high-profile lawsuits, their \$475.00 hourly
16 rate is patently reasonable. Indeed, attorneys with less experience have received
17 awards from this Court based on hourly rates much higher. *See, e.g., Rodriguez*, 96 F.
18 Supp. 3d at 1023 (awarding \$600 per hour for a 10-year attorney and \$500 per hour
19 for a 6-year attorney in a section 1983 case); *Charlebois v. Angels Baseball LP*, 993
20 F. Supp. 2d 1109, 1118 (C.D. Cal. 2012) (awarding \$500 per hour to a 6-year
21 attorney).

22 Associates Cheuvront, Frank & Moros: The reasonable hourly rate for Ms.
23 Cheuvront and Messrs. Frank and Moros, MAPC associates with between three-and
24 five-years' experience, ranges from \$325 to \$375. Cheuvront Decl. ¶ 7; Frank Decl.
25 ¶ 7; Moros Decl. ¶ 6.⁵

26 ⁵ *See Indep. Living Ctr. of S. Cal. v. Kent*, No. 08-cv-03315, 2020 U.S. Dist.
27 LEXIS 13019 (C.D. Cal. Jan. 24, 2020) (awarding \$400 per hour for a six-year
28 associate and \$300 per hour for a two-year associate in Los Angeles area); *Hoffman*
v. Cty. of L.A., No. 15-cv-3724, 2018 U.S. Dist. LEXIS 1162 (C.D. Cal. Jan. 3, 2018)
(awarding \$200 per hour for a three-year attorney and \$325 per hour for a six-year

1 Ms. Chevront is a 2017 graduate of Trinity Law School, where she
2 participated in law review and moot court. Chevront Decl. ¶ 2. She began her career
3 as a practicing attorney at MAPC in 2017, where she focuses mainly on firearm-
4 related civil rights litigation. *Id.* ¶ 5. She often appears at local legislative meetings
5 and special events to represent the interests of her clients on firearms policy matters.
6 *Id.* ¶ 6. Her \$325 hourly rate is well within the hourly rates charged by attorneys of
7 similar experience in Los Angeles.

8 Mr. Frank is a 2016 graduate of Loyola Law School Angeles. Frank Decl. ¶ 2.
9 He began his legal career at Severson & Werson in Irvine, California in late 2016,
10 where he litigated civil matters in the firm’s financial services practice group. *Id.* ¶ 3.
11 Mr. Frank joined MAPC as an associate attorney in early 2018, and his focus is
12 mainly firearm-related civil rights litigation. *Id.* ¶¶ 4-5. Mr. Frank has contributed to
13 appellate briefing and strategy in various constitutional matters and was named a
14 “rising star” by Super Lawyers magazine for 2020. *Id.* ¶¶ 5-6. His \$350 hourly rate is
15 well within the hourly rates charged by attorneys of similar experience in Southern
16 California.

17 Mr. Moros is a 2014 graduate of California Western School of Law. Moros
18 Decl. ¶ 2. He practiced at a boutique immigration law firm before joining MAPC in
19 late 2019, where he devotes his practice to civil employment litigation and firearm-
20 related civil rights litigation. *Id.* ¶ 5. His \$375 hourly rate is well within the hourly
21 rates charged by attorneys of similar experience in Southern California.

22 Staff Attorney Khundkar: The reasonable hourly rate for Mr. Khundkar is
23 **\$300.00**. Barvir Decl. ¶ 30. Mr. Khundkar is a 2017 graduate of University of
24 California, Irvine, School of Law. His \$300 hourly rate is well within the hourly rates

25 _____
26 attorney with no civil rights experience); *Cervantes v. County of Los Angeles*, No. 12-
27 cv-09889, 2016 U.S. Dist. LEXIS 23378 (C.D. Cal. Feb. 24, 2016) (awarding \$275
28 per hour for a two-year attorney); *Sanchez v. Cty. of San Bernardino*, No. 10-cv-
09384, 2014 U.S. Dist. LEXIS 199466 (C.D. Cal. Mar. 10, 2014) (awarding \$300 per
hour for a four-year attorney); *Comite de Jornaleros de Redondo Beach v. City of
Redondo Beach*, No. 04-cv-9396, 2006 U.S. Dist. LEXIS 95610 (C.D. Cal. Dec. 12,
2006) (awarding \$360 per hour for a four-year associate).

1 charged by highly specialized firms for attorneys of similar skill, experience, and
2 expertise in Southern California. *Id.*

3
4 **B. Plaintiffs’ Hours Spent Litigating This Case Are Reasonable and
They Are Entitled to Full Compensation for Their Efforts**

5 The exhaustive documentation submitted with this motion adequately proves
6 that the hours expended by Plaintiffs’ counsel are authentic, non-duplicative, and
7 reasonably expended. In the Ninth Circuit, affidavits in support of a fee motion need
8 only be enough to allow the Court to evaluate the relevant fee award factors. *See*
9 *Williams v. Alioto*, 625 F.2d 845, 849 (9th Cir. 1980); *Dennis v. Chang*, 611 F.2d
10 1302, 1308-09 (9th Cir. 1980). In fact, “the court should defer to the winning
11 lawyer’s professional judgment as to how much time he was required to spend on the
12 case; after all, he won, and might not have, had he been more of a slacker.” *Moreno v.*
13 *City of Sacramento* (9th Cir. 2008) 534 F.3d 1106, 1112.

14 Plaintiffs have established that they are entitled to full compensation for the
15 hours spent—for Plaintiffs’ sworn testimony establishes that each hour was
16 reasonably spent. Plaintiffs document their fee claim both by lead counsel’s detailed
17 declaration and by billing records prepared at or around the time counsel performed
18 all work. Barvir Decl. ¶¶ 35-96; Villegas Decl. Ex. A. Ms. Barvir provides a step-by-
19 step summary of the various tasks that required counsel’s time. Barvir Decl. ¶¶ 35-96.
20 And the declarations of Ms. Chevront and Messrs. Michel, Dale, Brady, Frank, and
21 Moros show the time and effort required of each of them to bring this case to its
22 successful conclusion. Brady Decl. ¶¶ 11-17; Chevront Decl. ¶¶ 11-16; Dale Decl.
23 ¶¶ 17-21; Frank Decl. ¶¶ 11-16; Michel Decl. ¶¶ 23-29; Moros Decl. ¶¶ 10-12.
24 What’s more, Plaintiffs’ counsel has exercised considerable “billing judgment,”
25 excluding from their claim time for entries that might be considered vague, excessive,
26 or redundant. Barvir Decl. ¶ 21, Ex. C; *Hensley*, 461 U.S. at 434, 437. Plaintiffs have
27 thus presented a fully documented fee claim, establishing the reasonableness of their
28 request.

1 **C. The Court Should Apply a 1.25 Lodestar Adjustment**

2 “[T]here is a strong presumption that the lodestar is sufficient,” but a party that
3 can identify a factor that “the lodestar does not adequately take into account” may be
4 entitled to an upward adjustment (or multiplier) of the lodestar. *Perdue v. Kenny A.*,
5 559 U.S. 542, 554 (2010); *City of Burlington v. Dague*, 505 U.S. 557, 562 (1992). In
6 considering whether to adjust the lodestar, the courts generally evaluate 12 factors:

- 7 (1) [T]he time and labor required; (2) the novelty and difficulty of the
8 questions; (3) the skill requisite to perform the legal service properly; (4)
9 the preclusion of employment by the attorney due to acceptance of the
10 case; (5) the customary fee; (6) whether the fee is fixed or contingent; (7)
11 time limitations imposed by the client or the circumstances; (8) the
12 amount involved and the results obtained; (9) the experience, reputation,
13 and ability of the attorneys; (10) the undesirability of the case; (11) the
14 nature and length of the professional relationship with the client; and
15 (12) awards in similar cases.

16 *Hensley*, 461 U.S. 420 n. 3.

17 Ultimately, because this case demanded the skill of seasoned constitutional law
18 attorneys working on behalf of a high-profile and much-maligned organization,
19 because the circumstances required significant investment of attorney labor, and
20 because counsel obtained exceptional results, the Court should apply, at least, a
21 modest multiplier of 1.25.

22 **1. The Results Obtained Justify an Upward Adjustment**

23 While a court may consider many factors in evaluating whether to adjust the
24 lodestar, the “most critical factor” in determining what is a “reasonable fee” under
25 section 1988 is the “results obtained.” *Hensley*, 461 U.S. 436. As the Supreme Court
26 clarified in *Purdue*, this question boils down to whether “superior attorney
27 performance is not adequately taken into account in the lodestar calculation.” 559
28 U.S. at 554. To be sure, this is a difficult inquiry to parse. But there are at least two
29 grounds for applying an upward multiplier based on the exceptional results obtained
30 here.

31 First, the lodestar does not adequately account for Plaintiffs’ counsel’s
32 performance because counsel’s skill and strategy, including the successful motion for

1 preliminary injunction which led the City to repeal the challenged ordinance,
2 profoundly shortened the duration of this lawsuit and avoided costly summary
3 judgment motions or trial, saving the parties potentially hundreds of thousands in
4 attorney hours, costs, and fees. Second, the Court should view counsel’s performance
5 should, at least partially, by the quality of their opponents. Here, that includes the
6 virtually unlimited legal resources of the Los Angeles City Attorney’s office and its
7 highly capable and seasoned team of civil rights litigators. The decisiveness of
8 Plaintiffs’ victory in the light of such a high-quality legal opponent justifies a modest
9 upward adjustment to the lodestar.

10 **2. This Desirability of the Case Justifies an Upward Adjustment**

11 Given the markedly controversial nature of the right to bear arms in this
12 jurisdiction, as well as the broader significance of the First Amendment interests here,
13 there is a unique need to reward members of the bar for their willingness to provide
14 their professional services in this case. *See A Lawyer’s Ethical Duty to Represent the*
15 *Unpopular Client*, 1 Chap. L. Rev. 105 (1998).

16 Plaintiff NRA is the symbolic torch bearer for the right to bear arms in the
17 United States. But it is undeniable there is widespread hostility to Plaintiff NRA’s
18 work in California.⁶ While its admirers view it as the steadfast champion of cherished
19 civil rights, its detractors view it as nothing less than a “white supremacist”
20 organization with blood on its hands. *See O’Farrell Remarks, supra*, n. 1. Through the
21 Ordinance, the City explicitly endorsed the latter view, seeking to pin scarlet letters
22 on those who do business with the NRA. Req. Jud. Ntc. Exs. M, N, O. Such

23 _____
24 ⁶ Mariel Padilla, *San Francisco Declares the N.R.A. a “Domestic Terrorist*
25 *Organization*,” N.Y. Times (Sept. 4., 2019), available at [https://www.nytimes.com/](https://www.nytimes.com/2019/09/04/us/san-francisco-nra-terrorist.html)
26 [https://www.usatoday.com/story/opinion/2018/02/22/readers-gun-laws-](https://www.usatoday.com/story/opinion/2018/02/22/readers-gun-laws-nra-evil-organization/362983002/)
27 [nra-evil-organization/362983002/](https://www.usatoday.com/story/opinion/2018/02/22/readers-gun-laws-nra-evil-organization/362983002/) (last accessed Apr. 29, 2020); *see also 28% of*
28 *Democrats Say it Should Be Illegal to Join the NRA*, Rasmussen Reports (Sept. 9,
2019), available at [https://www.rasmussenreports.com/public_content/politics/](https://www.rasmussenreports.com/public_content/politics/current_events/gun_control/28_of_democrats_say_it_should_be_illegal_to_join_the_nra)
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[nra](https://www.rasmussenreports.com/public_content/politics/current_events/gun_control/28_of_democrats_say_it_should_be_illegal_to_join_the_nra) (last accessed Apr. 29, 2020)

1 pronounced government animosity for these businesses and individuals reflects a
2 disquieting trend, both in the public fora and the halls of power, to suppress the First
3 Amendment rights of those who support the Second Amendment.

4 Again, the very purpose of the challenged ordinance was to expose NRA-
5 supportive businesses so that a City and public hostile to NRA's views could decide
6 whether they wanted to do business with them. Req. Jud. Ntc. Exs. M (proponents of
7 the measure quoted as claiming the City must "rid itself" of NRA supporters); *id* Ex.
8 O (councilmembers claimed the City "deserves" to know who supports the NRA); *see*
9 *also* O'Farrell Remarks, *supra*, n. 1 at 1:34:22; Councilmember Paul Krekorian,
10 Remarks at Meeting of Los Angeles City Council at 1:37:30 (Feb. 12, 2019),
11 *available at* [http://lacity.granicus.com/MediaPlayer.php?view_id=129&](http://lacity.granicus.com/MediaPlayer.php?view_id=129&clip_id=18753)
12 [clip_id=18753](http://lacity.granicus.com/MediaPlayer.php?view_id=129&clip_id=18753). So, the City can hardly dispute that attorneys risk similar reputational
13 harm for (successfully) representing the NRA's interests in a high-profile legal
14 challenge to City law. It is nearly impossible to represent the organization without
15 making that representation a matter of public record and media attention, to be sure.
16 There is thus reason to believe that, even if generous fee recovery were guaranteed,
17 many attorneys competent to litigate complex constitutional law cases would decline
18 to represent the organization. An upward multiplier is necessary because the lodestar
19 alone may not be enough to attract adequate counsel to litigate cases like this one.

20 **3. Time Limitations Imposed by the Circumstances Justify an** 21 **Upward Adjustment**

22 Ordinarily, the long trajectory of the litigation process permits even the busiest
23 of law firms time to handle case development one phase at a time. Extensions are
24 disfavored and cases should be prosecuted without unjustified delay. *See Benham v.*
25 *Sequoia Equities, Inc.*, No. 13-cv-00205-VBF, 2013 U.S. Dist. LEXIS 108015 *35-
26 37 n.9 (C.D. Cal. May 29, 2013) But here Plaintiffs' counsel litigated under an
27 unusually accelerated timeframe. Recall, shortly after issuing its MPI Order, and
28 before the City had filed its answer, trial was set for February 25, 2020 and January

1 21, 2020 became the deadline for pretrial filings. Order (Dec. 17, 2019), ECF No. 37.
2 This gave the parties just over one month to conduct discovery, consider settlement,
3 and prepare pretrial filings. Barvir Decl. ¶ 106. This timeframe drove counsel to
4 simultaneously devote themselves almost singularly to the responsibilities of trial
5 preparation *and* settlement negotiations throughout January 2020. *Id.* Though
6 Plaintiffs, exercising reasonable “billing judgment,” have excluded many hours billed
7 to settlement and trial preparation for purposes of this fee motion, the circumstances
8 of this case limited Plaintiffs’ attorneys’ ability to devote significant time to other
9 fee-paying work for the entire month, making an upward adjustment appropriate. *Id.*

10 **CONCLUSION**

11 For these reasons, the Court should grant Plaintiffs’ Motion for Attorneys’
12 Fees, awarding Plaintiffs **\$472,760.50** in attorneys’ fees.

13
14 Dated: April 30, 2020

MICHEL & ASSOCIATES, P.C.

15
16 *s/ Anna M. Barvir*
17 Anna M. Barvir
18 Attorneys for Plaintiffs
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CERTIFICATE OF SERVICE
IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Case Name: *National Rifle Association, et al., v. City of Los Angeles, et al.*
Case No.: 2:19-cv-03212 SVW (GJSx)

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, am a citizen of the United States and am at least eighteen years of age. My business address is 180 East Ocean Boulevard, Suite 200, Long Beach, California 90802.

I am not a party to the above-entitled action. I have caused service of:

**PLAINTIFFS’ MEMORANDUM OF POINTS AND AUTHORITIES IN
SUPPORT OF MOTION FOR ATTORNEYS’ FEES AWARD
PURSUANT TO 42 U.S.C. § 1988**

on the following party by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

Benjamin F. Chapman
Los Angeles City Attorney
200 N. Main St., Suite 675
Los Angeles, CA 90012
benjamin.chapman@lacity.org
Attorneys for Defendants

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

Executed April 30, 2020.

s/ Laura Palmerin

Laura Palmerin