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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF SACRAMENTO

12 DAVID GENTRY, JAMES PARKER,
13 MARK MIDLAM, JAMES BASS, and
14 CALGUNS SHOOTING SPORTS
15 ASSOCIATION,

16 Plaintiffs and Petitioners,

17 v.

18 XAVIER BECERRA, in His Official
19 Capacity as Attorney General For the State
20 of California; STEPHEN LINDLEY, in
21 His Official Capacity as Acting Chief for
22 the California Department of Justice,
23 BETTY T. YEE, in Her Official Capacity
24 as State Controller, and DOES 1 - 10,

25 Defendants and Respondents.

FILED
Superior Court Of California,
Sacramento
10/12/2021
tcrowther
By _____, Deputy
Case Number:
34-2013-80001667

Case No. 34-2013-80001667

**DECLARATION OF SCOTT M. FRANKLIN
IN SUPPORT OF PLAINTIFFS' MOTION
FOR ATTORNEYS' FEES**

(Filed concurrently with Notice of Motion & Motion, Memorandum of Points & Authorities in Support, Request for Judicial Notice, Proposed Order, Declaration of Anna M. Barvir, Declaration of Sean A. Brady, Declaration of Alexander A. Frank, Declaration of C.D. Michel, Declaration of Albert E. Peacock, III, and Haydee Villegas, Exhibits A-I)

Hearing Date: January 14, 2022
Hearing Time: 10:00 a.m.
Department: 21
Judge: Hon. Shelleyanne W.L. Chang

Trial Date: August 24, 2018
Action Filed: October 16, 2013

1 simultaneously herewith). My \$375 hourly rate is well within the hourly rates charged by highly
2 specialized firms for attorneys of similar skill, experience, and expertise in Southern California.

3 **Authentication of Billing**

4 8. Plaintiffs' billing records, attached to the Declaration of Haydee Villegas filed
5 simultaneously herewith, include true and accurate copies of my billing records for which fee
6 recovery is sought in this matter. *See Ex. A* (attached to the Declaration of Haydee Villegas filed
7 simultaneously herewith). The records include detailed descriptions of the work I performed on
8 this matter and the time spent on each task between May 2013 and October 2021. *Id.*

9 9. In the regular course and scope of my daily business activities, I prepared the
10 descriptions contained in each billing record that shows my name as the "Timekeeper," and I did
11 so at or near the time of the occurrence of the work that I performed on this matter.

12 10. The descriptions contained within my billing records are a fair and accurate
13 description of the work I performed on this matter and time spent on each task. In my professional
14 judgment, the amount of time indicated for each task described in my billing records is a
15 reasonable amount of time for me to have spent on the type of work described therein.

16 **Role in the Litigation**

17 11. I spent approximately **47.6** hours engaged in case management work. That time
18 breaks down as follows: (1) about 10.2 hours were spent engaged in case-management meetings
19 with the attorneys and other billing professionals (e.g., law clerks) assigned to litigate this case; (2)
20 about 2.3 hours were spent communicating with the litigation team and opposing counsel via
21 telephone; (3) about 13.3 hours were spent communicating with the litigation team and opposing
22 counsel via email and other written correspondence; (4) about 16.1 hours were spent conducting
23 research, reviewing, and analyzing, inter alia, potentially related lawsuits and investigations to
24 determine whether filings or holdings would be helpful here, relevant case law to develop
25 arguments and theories, and proposed regulations and legislation to determine what, if any, impact
26 they would have on the case; and (5) about 5.7 hours were spent drafting stipulations re:
27 bifurcation and extending case deadlines, and legal research memoranda re: case strategies and
28 theories. Villegas Decl., Ex. A; Brady Decl., Ex. C.

1 12. I spent approximately **19.6** hours during the complaint phase of litigation. That time
2 breaks down as follows: (1) about 3.0 hours were spent in meetings with the litigation team about
3 the status of and strategies related to building this case through legal research to determine viable
4 claims, gathering relevant evidence, and preparing the complaint; (2) about 0.3 hour was spent
5 communicating with the litigation team and clients via telephone and email; (3) about 12.3 hours
6 were spent drafting and revising verifications, errata, and the amended complaint; and (4) another
7 4.0 hours were spent researching and analyzing legal issues arising in the preparation of the
8 complaint. Villegas Decl., Ex. A; Brady Decl., Ex. C.

9 13. I spent approximately **189.5** hours during the motions phase of litigation. That time
10 breaks down as follows: (1) about 9.3 hours were spent in meetings and telephone conferences
11 with the litigation team about the status of and strategies related to moving this case forward
12 through motions practice; (2) about 5.9 hours were spent communicating with the litigation team
13 and opposing counsel via email and other written correspondence; (3) about 151.0 hours were
14 spent drafting, reviewing, revising, and preparing to serve/file Plaintiffs' motion for leave to file
15 an amended complaint, Plaintiffs' opposition to Defendants' motion for judgment on the
16 pleadings, as well as the supporting documents for those motions; (4) about 18.7 hours were
17 researching, reviewing, and analyzing, inter alia, Defendants' motion for judgment on the
18 pleadings, hearing transcripts, tentative rulings, Defendants' answer, and case precedent relied on
19 in the parties' motions briefing; and (5) about 4.6 hours were spent preparing for and making
20 appearances related to law and motion practice. Villegas Decl., Ex. A; Brady Decl., Ex. C.

21 14. I spent approximately **106.3** hours during the summary adjudication phase of
22 litigation. That time breaks down as follows: (1) about 1.7 hours were spent discussing the
23 strategies for, status of, and arguments to make during the first phase of this bifurcated litigation
24 (i.e., the parties' cross-motions for summary adjudication re: Causes of Action 5 and 9) with the
25 litigation team through meetings and emails; (2) about 103.3 hours were spent researching,
26 drafting, reviewing, revising, and preparing to file Plaintiffs' motion for summary adjudication and
27 supporting documents, Plaintiffs' opposition to Defendants' motion for summary adjudication, and
28 Plaintiffs' reply to Defendants' opposition; and (3) about 1.3 hours were spent preparing for and

1 making an appearance related to the summary adjudication motion. Villegas Decl., Ex. A; Brady
2 Decl., Ex. C.

3 15. I spent approximately **131.4** hours during the bench trial phase of litigation. That
4 time breaks down as follows: (1) about 4.3 hours were spent in meetings and telephone
5 conferences with the litigation team about the status of and strategies related to the bench trial; (2)
6 about 3.0 hours were spent drafting and responding to emails and other written correspondence
7 with the litigation team and opposing counsel; (3) about 112.2 hours were spent drafting,
8 reviewing, and revising Plaintiffs' opening merits brief and reply briefing—this also includes time
9 I spent before bifurcation of the case drafting a “motion for summary judgment” that would
10 largely serve as the foundation for Plaintiffs' motion for summary adjudication and trial briefing;
11 (4) about 3.2 hours were spent research and analysis of Defendants' briefing and relevant caselaw
12 to prepare for trial; and (5) about 8.7 hours were spent preparing for and appearing at the trial
13 hearing, including drafting my trial hearing outline and opening statement, analyzing the Court's
14 tentative ruling, and participating in a mock hearing. Villegas Decl., Ex. A; Brady Decl., Ex. C.

15 16. I spent approximately **5.4** hours during the post-judgment phase of litigation. All of
16 that time was spent drafting a proposed order and judgment, analyzing the judgment in this matter
17 and preparing a memorandum for the client re: same, and negotiating and preparing a stipulation to
18 extend time to file motion for attorneys' fees and memorandum of costs until after appeal. Villegas
19 Decl., Ex. A; Brady Decl., Ex. C.

20 **My Role in Discovery**

21 17. I spent approximately **587.2** hours during the discovery phase of litigation,
22 constituting over half of the hours I seek recovery for in this matter. This is because discovery in
23 this matter was quite extensive and dealt with, among other things, rather technical and detailed
24 accounting information from the State related to the DROS Fee.

25 18. I was responsible for Plaintiffs propounding at least 5 sets of document requests, 4
26 sets of requests for admission, 4 sets of form interrogatories, and 6 sets of special interrogatories—
27 for a total of about 465 separate requests.

28 19. I also took the depositions of David Harper (about 3 hours and 40 minutes), Jessica

1 R. Devencenzi Holmes (about 2 hours and 30 minutes total), and Stephen J. Lindley (about 3
2 hours and 15 minutes) on behalf of Plaintiffs.

3 20. Discovery was fraught with disputes that required Plaintiffs to prosecute an
4 extraordinary number of motions to compel. Indeed, I drafted and filed about a half dozen such
5 motions on Plaintiffs' behalf, and then renewed two of them. These discovery motions, as well as
6 the parties' meet-and-confer efforts, resulted in Defendants providing amended discovery
7 responses on no less than 18 occasions. To be certain, the discovery challenges Plaintiffs faced in
8 this case were unusually severe, causing Plaintiffs' counsel—myself especially—to expend
9 extraordinary efforts.

10 21. The time I spent during this phase of litigation breaks down as follows: (1) about
11 19.5 hours were spent in meetings with the litigation team about the status of and strategies for
12 discovery; (2) about 18.8 hours were spent engaging in e-mail communications with the litigation
13 team about the status of and strategies for discovery, as well as with opposing counsel re:
14 discovery status and disputes; (3) about 49.4 hours were spent on other written correspondence,
15 including drafting and revising meet-and-confer letters to opposing counsel about discovery
16 disputes; (4) about 12.4 hours were spent engaged in telephone conferences with the litigation
17 team about the status of and strategies for discovery, as well as participating in telephonic meet-
18 and-confers and other telephone conferences with opposing counsel; (5) about 12.9 hours were
19 spent conducting research and drafting a research memorandum re: discovery options and strategy;
20 (6) about 46.8 hours were spent determining who to depose, drafting deposition notices, preparing
21 to take and taking the depositions of Devencenzi Holmes, Harper, and Lindley; (7) about 9.9 hours
22 were spent preparing to meet and confer with opposing counsel, as well as preparing for discovery
23 motion hearings and discovery conferences; (8) about 16.1 hours were spent conducting legal
24 research regarding various discovery-related issues, including scope and validity of privileges
25 claimed by DOJ and various arguments for use in motions to compel; and (9) about 2.5 hours were
26 spent making appearances on discovery motions. Villegas Decl., Ex. A; Brady Decl., Ex. C.

27 22. I spent about 85.9 hours reviewing, evaluating, and analyzing discovery-related
28 documents, including discovery responses and documents produced in response to Plaintiffs'

1 discovery requests and public records requests. This included an intensive review of thousands of
2 pages of documents, responses, and objections, including a detailed and technical review of the
3 State's accounting information related to the DROS Fee. It also included creating attorney notes
4 and impressions, reports, tables, and charts of the responses received, and other discovery
5 summaries. And it includes times spent reviewing, analyzing, and summarizing deposition
6 transcripts of David Harper, Villegas Decl., Ex. A; Brady Decl., Ex. C.

7 23. The bulk of the time I spent during this phase (i.e., 313.0 hours) was, naturally,
8 spent drafting, reviewing, and/or revising the Public Records Act Requests and 18 sets of
9 discovery Plaintiffs served on Defendants, including 4 sets of document requests, four sets of
10 requests for admission, 4 sets of form interrogatories, and 6 sets of special interrogatories. This
11 time also includes the many hours I devoted to researching, drafting, reviewing, revising, and
12 preparing to file Plaintiffs' motions to compel that were both necessary and largely successful.
13 Villegas Decl., Ex. A; Brady Decl., Ex. C.

14 I declare under penalty of perjury under the laws of the state of California that the
15 foregoing is true and correct. Executed this 11th day of October, at Glendale, California.

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18 _____
19 Scott M. Franklin
20 Declarant
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PROOF OF SERVICE

STATE OF CALIFORNIA
COUNTY OF SACRAMENTO

I, Laura Palmerin, am employed in the City of Long Beach, Los Angeles County, California. I am over the age of eighteen (18) years and am not a party to the within action. My business address is 180 East Ocean Blvd., Suite 200, Long Beach, CA 90802.

On October 12, 2021, the foregoing document described as

DECLARATION OF SCOTT M. FRANKLIN IN SUPPORT OF PLAINTIFFS’ MOTION FOR ATTORNEYS’ FEES

on the interested parties in this action by placing

- the original
- a true and correct copy

thereof enclosed in sealed envelope(s) addressed as follows:

Ryan A. Hanley
Deputy Attorney General
California Department of Justice
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Ryan.Hanley@doj.ca.gov

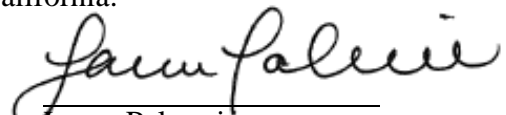
Attorney for Defendants

(**BY OVERNIGHT MAIL**) As follows: I am “readily familiar” with the firm’s practice of collection and processing correspondence for overnight delivery by UPS/FED-EX. Under the practice it would be deposited with a facility regularly maintained by UPS/FED-EX for receipt on the same day in the ordinary course of business. Such envelope was sealed and placed for collection and delivery by UPS/FED-EX with delivery fees paid or provided for in accordance with ordinary business practices.

(**BY MAIL**) As follows: I am “readily familiar” with the firm’s practice of collection and processing correspondence for mailing. Under the practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Long Beach, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date is more than one day after date of deposit for mailing an affidavit.

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

Executed on October 12, 2021, at Long Beach, California.



Laura Palmerin