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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

Ilsa Saravia, as next friend for A.H., a  
minor, and on behalf of herself individually  
and others similarly situated,

Plaintiff,

v.

Merrick Garland, Attorney General, *et al.*,

Defendants.

Case No. 3:17-cv-03615-VC

Honorable Vince Chhabria

**DECLARATION OF MARTIN S. SCHENKER  
IN SUPPORT OF PLAINTIFFS' MOTION  
FOR ATTORNEY'S FEES**

I, Martin S. Schenker, declare as follows:

1. I am a partner with the law firm of Cooley LLP, counsel of record in the above-captioned matter for named Plaintiffs and the provisionally certified Class in this action.

2. I submit this Declaration in Support of Plaintiff's Motion for Approval of Settlement Regarding Attorneys' Fees and Costs.

3. I have personal knowledge of the facts set forth below and, if called as a witness to testify, could and would testify competently thereto.

4. In provisionally certifying the class in this matter, this Court determined that the class was adequately represented. *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1205 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) (“[H]aving reviewed the proof submitted by plaintiffs' counsel regarding their experience litigating complex civil actions and cases involving issues similar to those raised in this case, the Court is satisfied that the adequacy requirement is met.”).

5. This Court later preliminarily approved of the Class Settlement and appointed Cooley LLP (together with our co-counsel) as class counsel. (ECF No. 245.)

6. Shortly before Plaintiff filed her Motion seeking Preliminary Approval, counsel for Plaintiff and Defendants (collectively, “Parties”) initiated negotiations regarding Plaintiff's intent to file a Motion seeking Fees and Costs pursuant to 28 U.S.C. § 2412 of the Equal Access to Justice Act. The Parties engaged in active, arms-length, negotiations for over six months before agreeing to mediate their dispute before Magistrate Judge Laurel Beeler. (ECF No. 256). With the assistance of Judge Beeler, the Parties settled Plaintiff's request for fees and costs on April 22, 2021. (ECF No. 259).

7. Attached hereto as Exhibit A is a true and correct copy of the executed Fees and Costs Settlement Agreement entered into by the Parties on May 27, 2021.

**DETAILS REGARDING COOLEY'S TIMEKEEPERS**

8. A total of eight timekeepers from Cooley recorded time on this case from July 2017 through March 2020: Martin Schenker; Nathaniel Cooper; Ashley Corkery; Kathlyn Querubin; Trevor Kempner; Robert Paris; Evan Slovak; and Erik Kruger (paralegal).

9. As part of the settlement negotiations for Plaintiff's fees and costs, and in connection with this Motion, I reviewed the time records of each of these individuals and am knowledgeable about the tasks performed as I was responsible for overseeing the strategy of this case. I believe that each of the individuals who worked on this matter worked efficiently and contributed substantially to the representation of the named Plaintiff and class members.

10. Over the course of the litigation, the Cooley team included six litigation associates, all of whom are members of the California Bar and are admitted to practice law before all state and federal courts in the State of California.

11. I am a partner in the Business Litigation practice group at Cooley LLP. I received a bachelor's degree with highest honors from U.C. Davis in 1978, a master's degree from the London School of Economics and Political Science in 1979, and a J.D. *magna cum laude* from Harvard Law School in 1983. During my last year in law school, I worked with the Southern Poverty Law Center for approximately six months investigating conditions in the State of Alabama's juvenile detention facilities, including spending a month working out of the Center's offices in Montgomery, Alabama, and thereafter analyzing potential Constitutional challenges to conditions in those facilities. After receiving my J.D., I clerked for the Honorable Mariana R. Pfaelzer on the federal district court in Los Angeles for one year, and I have been in private practice as a litigator for over 30 years.

12. I joined Cooley LLP as a partner in 1999. I am a member of the California Bar and am admitted to practice law before all state and federal courts in the State of California and the United States Courts of Appeals for the Ninth Circuit. My practice focuses on complex business litigation, and I have significant trial experience. I have litigated numerous "bet the company" cases and multiple cases with hundreds of millions, and even billions, of dollars at stake, and have tried many cases in both state and federal courts.

13. I have been selected for *Northern California Super Lawyers* lists for more than ten years.

14. In addition to my extensive experience litigating complex business matters, I am also counsel of record in *Angel de Jesus Zepeda Rivas, et al. v. David Jennings, et al.*, No. 20-cv-

02731-VC, a class action seeking to remedy fundamentally unsafe conditions endangering the health of immigrants detained at the Mesa Verde Detention Facility and the Yuba County Jail in the midst of the global COVID-19 pandemic. This Court has provisionally certified that class and entered numerous temporary restraining orders and preliminary injunctions to mitigate the dangers to the provisional class. *See, e.g., Zepeda Rivas v. Jennings*, 445 F. Supp. 3d 36 (N.D. Cal. 2020); *Zepeda Rivas v. Jennings*, No. 20-cv-02731-VC, 2020 WL 4554646, at \*1 (N.D. Cal. Aug. 6, 2020); *Zepeda Rivas v. Jennings*, No. 20-CV-02731-VC, 2020 WL 7066346, at \*11 (N.D. Cal. Dec. 3, 2020).

15. Ashley K. Corkery's practice focuses on complex commercial disputes, class action defense, and privacy and data protection. She received her J.D. *magna cum laude* from University of California, Hastings College of the Law in 2014, and her B.A. from Stanford University in 2008. She was a judicial extern to the Honorable Charles Breyer of the U.S. District Court for the Northern District of California and to the Honorable Joyce Kennard of the Supreme Court of California.

16. Evan G. Slovak's practice focuses on general commercial litigation, including technology and privacy matters. He received his J.D. from University of Pennsylvania Law School in 2017 and his B.A. from Pitzer College in 2014 with highest honors. He was a judicial law clerk to the Honorable Karen S. Crawford in the U.S. District Court for the Southern District of California.

17. Nathaniel R. Cooper's practice, at the time he was working on this case, focused on consumer class actions, commercial and real estate litigation, and founder and intellectual property owner disputes. He received his J.D. from the University of San Diego School of Law in 2008, and his B.A. from University of California, San Diego, in 2004.

18. Trevor Kempner's practice, at the time he was working on this case, focused on complex commercial, securities, and privacy related litigation. He received his J.D. from Stanford Law School in 2015, and his B.A. from Yale University in 2009.

19. Kathlyn Querubin's practice, at the time she was working on this case, focused on commercial and shareholder class actions, privacy and data breach litigation, and intellectual

property disputes. She received her J.D. from University of California, Hastings College of the Law in 2010, and her B.A. from University of San Francisco in 2003.

20. Robert Paris's practice, at the time he was working on this case, focused on commercial, and privacy related litigation. He received his J.D. from Stanford University in 2018, and his B.A. from Harvard University in 2012.

**SUMMARY OF COMPENSABLE TIME AND COSTS EXPENDED BY COOLEY LLP**

21. As explained in Plaintiffs' Motion for Attorneys' Fees filed herewith, this case involves complex immigration and constitutional issues and has been highly resource-intensive to litigate. As a result, this case required extremely skilled attorneys with extensive hearing and trial experience. Accordingly, I believe Plaintiff is entitled to an enhanced hourly rate for attorneys consistent with the private San Francisco market in which the attorneys normally practice.

22. Plaintiffs seek a total award of \$1,279,659.42 for Cooley LLP attorneys' fees, and \$31,165.41 in costs. The costs include filing fees, document preparation services, postage and delivery service, computerized legal research, audio and videoconferencing services, and copying expenses. Each category of costs represented in the total are routinely billed to clients by my firm.

23. Cooley LLP attorneys are salaried employees of the law firm. Cooley LLP has taken on this matter pro bono. Because Cooley LLP has taken on this matter pro bono, there is no economic incentive for its attorneys to do any more work on this case than is necessary to serve the interests of our pro bono clients.

24. Cooley LLP began its work on this case in August 2017 and contributed substantively to the litigation of this case, in all phases, including pleadings, motion practice, locating and working with experts, witness examinations at the preliminary injunction hearing, discovery, mediation, and settlement.

25. The total amount of fees incurred by Plaintiff for services performed by Cooley LLP in this matter from July 2017 through March 2020, subject to the applicable EAJA rate caps—except for myself for whom Plaintiff would seek enhanced rates—is \$694,014.92. Enhanced rates for my work is \$585,644.50. The total amount of hours worked for this time period by Cooley LLP timekeepers was 3,917 hours. This number does not include any fees associated with

litigation after March 30, 2020 such as Plaintiff's Motions for Preliminary and Final Approval of the Class Settlement, nor the EAJA fee negotiations that prompted this Motion.

26. Similarly, these calculations omit any costs incurred after March 30, 2020.

27. Cooley timekeepers billed 1,680.1 hours from July 18, 2017 through November 21, 2017. That period included, *inter alia*, drafting the Amended Complaint and First Amended Petition for Writ of Habeas Corpus and Class Action Complaint for Injunctive and Declaratory Relief (ECF No. 31), the ensuing discovery related to the Complaint and preliminary injunction proceedings, as well as the hearing for same. Cooley timekeepers also expended substantial time working with experts in preparation for the hearings on Plaintiff's requested preliminary injunction. The Court held two hearings during which the Government presented witnesses and Plaintiff had the opportunity for cross-examination, requiring substantial preparation. *See* Pl. Mot., ECF No. 61; *see also* 10/27/2017 Hr'g Tr., ECF No. 98; 11/1/2017 Hr'g Tr., ECF No. 170.

28. The Court granted Plaintiff's requested Preliminary Injunction and provisionally certified the class on November 20, 2017. (ECF No. 100). From November 22, 2017 through July 13, 2018, Cooley timekeepers billed 790.6 hours. That period included, *inter alia*, the government's appeal to the Ninth Circuit, the attendant briefing and oral argument, and numerous *Saravia* hearings. (ECF No. 124-1, Chart re: *Saravia* Hearings.)

29. Cooley timekeepers billed 610 hours from July 14, 2018 through January 28, 2019. That period included, *inter alia*, extensive written discovery, drafting of a Second Amended Complaint (ECF No. 164), briefing in opposition to Defendants' Motion to Dismiss (ECF No. 172), and preparation of a Motion to Clarify the Definition of the Class (ECF No. 159, 160).

30. Cooley timekeepers billed 836.3 hours from January 29, 2019 through March 30, 2020. That period marked the beginning of the Parties' settlement negotiations, substantial settlement-related discovery efforts, mediation before Magistrate Judge Laurel Beeler, and the protracted drafting of the Final Class Settlement Agreement.

31. For purposes of the Parties' Settlement of Plaintiff's Fees and Costs, Plaintiff omitted all hours billed by all Plaintiff timekeepers after March 30, 2020. Therefore the hours billed by Cooley timekeepers related to the Motion for Preliminary Class Certification (ECF No.

237), Motion for Final Approval of Class Certification (ECF No. 246), the Parties' negotiations to settle Plaintiff's fees and costs, and the instant Motion were not part of the Parties' settlement efforts.

32. If the Parties failed to reach agreement regarding fees and costs, Plaintiff would have sought compensation for fees and costs incurred by all counsel after March 30, 2020 in a Motion for Fees and Costs pursuant to the Equal Access to Justice Act.

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

Executed on June 1, 2021 in San Francisco, California.

/s/ Martin S. Schenker  
Martin S. Schenker