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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO DIVISION

DERRIL HEDRICK, DALE ROBINSON, KATHY LINDSEY, MARTIN C. CANADA, DARRY TYRONE PARKER, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

JAMES GRANT, as Sheriff of Yuba County; Lieutenant FRED J. ASBY, as Yuba County Jailer; JAMES PHARRIS, ROY LANDERMAN, DOUG WALTZ, HAROLD J. "SAM" SPERBEK, JAMES MARTIN, as members of the YUBA COUNTY BOARD OF SUPERVISORS,

Defendants.

Case No. 2:76-CV-00162-EFB

**[~~PROPOSED~~] AMENDED ORDER GRANTING PLAINTIFFS' MOTION FOR ATTORNEYS' FEES AND COSTS**

Judge: Hon. Edmund F. Brennan
Date:
Time:
Crtrm.: 8, 13th Floor

Trial Date: None Set

Plaintiffs' Motion for Attorneys' Fees and Costs came on for hearing before this Court on January 30, 2019.

The Amended Consent Decree, to which the parties agreed on August 16, 2018, provides that

> The parties acknowledge that Plaintiffs' counsel have incurred and will incur attorneys' fees, litigation expenses, and costs related to monitoring the Consent Decree, litigating issues related to enforcement of the Consent Decree, seeking remedial orders, and negotiating this Amended Consent Decree. … [P]laintiffs will, contemporaneous with their filing of their motion for preliminary approval of the Amended Consent Decree, submit a motion for attorneys' fees and costs seeking to recover attorneys' fees and costs related to all work on this matter including monitoring the Consent Decree, litigating issues related to the Consent Decree (including the Motion to File a Supplemental Complaint), seeking remedial orders, and negotiating this Amended Consent Decree ("fees and expenses"). Plaintiffs agree not to seek fees and expenses from the Court in an amount above $1,100,000, for fees and expenses incurred through June 30, 2018. Defendants agree not to oppose Plaintiffs' petition for fees and expenses up to that amount for the period through June 30, 2018. Plaintiffs reserve the right to petition the Court for additional fees and expenses incurred from July 1, 2018 through final approval of the Amended Consent Decree ("additional fees and expenses"). Plaintiffs' counsel agree the lodestar for the additional fees and expenses will be calculated using $220.50 per hour, the 2018 rate authorized by the Prison Litigation Reform Act (PLRA). Defendants reserve the right to oppose any request by Plaintiffs for compensation for fees and expenses incurred from July 1, 2018 through final approval of the Amended Consent Decree. The parties acknowledge that Court approval of the fees and expenses is required.

The Court, having considered the pleadings on the motion, oral argument at the hearing, and the record in this case, and good cause appearing, now makes findings and ORDERS as follows:

1. This is a class action certified pursuant to Federal Rule of Civil Procedure 23(b)(2), and the Court may award attorneys' fees and costs to class counsel pursuant to Fed. R. Civ. P. 23(h).

2. Plaintiffs are "prevailing parties" under the federal fee shifting statutes 42 U.S.C. § 1983, 42 U.S.C. § 12205, and 29 U.S.C. § 794a(b). Plaintiffs are successful litigants under California's private attorney general statute, Cal. Code Civ. Proc. § 1021.5. An award of attorney fees is appropriate under both Section 1021.5 and the separate federal fee-shifting statutes.

3. For work that Plaintiffs performed prior through June 30, 2018 on work related to claims under sections 12132 and 12188 of the Americans with Disabilities Act ("ADA"), section 794 of the Rehabilitation Act, Article I, Sections 7 and 17 of California Constitution, California Government Code § 11135, and California Code of Civil Procedure § 1021.5 (collectively, "ADA-related work"), Plaintiffs are entitled to compensation at their full market rates.

4. For work that Plaintiffs' counsel performed through June 30, 2018 on non-ADA-related work and for all work that Plaintiffs' counsel performed after July 1, 2018, Plaintiffs have agreed to be compensated at the rate set by the Prison Litigation Reform Act ("PLRA"). 18 U.S.C. § 3006A. For 2018, Defendants have agreed in the Amended Consent Decree that the PLRA rate is $220.50 per hour.

5. The time Plaintiffs' attorneys expended on this case was appropriate given the length, intensity, and nature of the litigation. In calculating their lodestar, Plaintiffs' counsel have written off a total of approximately 10% of billable hours to date. The Court finds these billing judgment reductions to be reasonable and appropriate, in that they assure that Plaintiffs' counsel have accounted for any undue duplication of effort or inefficiency.

6. After reasonable billing judgment reductions, Plaintiffs' lodestar for work performed through June 30, 2018 is $1,652,000.20, representing compensation for 6922 hours of work invested in this case. For the period from July 1, 2018 through final approval of the Amended Consent Decree, Plaintiffs' lodestar is $100,901, representing compensation for 457.4 additional hours of work invested in this case.

7. Plaintiffs' counsel is entitled to recover the expenses advanced to prosecute this litigation on behalf of the class. Plaintiffs have incurred costs and expenses of $68,782.81 through June 30, 2018. For the period from July 1, 2018 through final approval of the Amended Consent Decree, Plaintiffs have incurred costs and expenses of $2,010.

8. Accordingly, the Court finds that Plaintiffs' counsel's total lodestar of fees

and expenses through June 30, 2018 of $1,720,783.01 is reasonable and appropriate under federal and state law for the work performed and the success achieved for the class. This amount far exceeds the negotiated cap of $1.1 million for fees and expenses incurred through June 30, 2018.

9. The Court also finds that Plaintiffs' counsel's total lodestar of fees and expenses from July 1, 2018 through final approval of $102,911 is reasonable and appropriate under federal and state law for the work performed and the success achieved for the class.

10. For the period through June 30, 2018, Defendants are ordered to pay Plaintiffs' $1,100,000 for reasonable attorneys' fees, expenses, and costs.

11. For the period from July 1, 2018 through final approval, Defendants are ordered to pay Plaintiffs' $79,500 for reasonable attorneys' fees, expenses, and costs.

12. These amounts shall be paid within thirty (30) days of entry of this Order. Interest shall run commencing fifteen (15) days from the date of this Order, accruing at the rate provided by 28 U.S.C. § 1961.

IT IS SO ORDERED.

DATED: January 31, 2019.

EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE