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10 || Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

14 L.H., A.Z., D.K., D.R., M.N., and R.C., on behalf of
15 themselves and all other similarly situated juvenile
parolees in California.

Plaintiffs,

VS.

17 ARNOLD SCHWARZENEGGER, Governor, State of
18 California, JAMES E. TILTON, Secretary (A),
19 California Department of Corrections and Rehabilitation
("CDCR"); KINGSTON "BUD" PRUNTY,
20 Undersecretary, CDCR; BERNARD WARNER, Chief
21 Deputy Secretary of the Division of Juvenile Justice;
JOE MONTES, Director, Division of Juvenile Parole;
22 DENNIS DULAY, Acting Deputy Director of the
Division of Juvenile Parole Operations; JOHN
23 MONDAY, Executive Director of the Board of Parole
Hearings ("BPH"); JAMES DAVIS, Chair of the BPH;
24 JOYCE ARREDONDO, PAUL CHABOT, JOSEPH
COMPTON, SUSAN MELANSON, THOMAS
25 MARTINEZ, ASKIA ABULMAJEED, and CHUCK
SUPPLE, Commissioners and Board Representatives,
CDCR; DIVISION OF JUVENILE JUSTICE; BOARD
26 OF PAROLE HEARINGS; and the JUVENILE
PAROLE BOARD.

Defendants.

Case No. 2:06-CV-02042-LKK-GGH

**ORDER ESTABLISHING
PERIODIC PROCESS FOR
COLLECTION OF ATTORNEYS'
FEES AND COSTS**

Date: February 9, 2009

Time: 10:00 a.m.

Courtroom: 4

Judge: Hon. Lawrence K. Karlton

ORDER ESTABLISHING PERIODIC PROCESS FOR COLLECTION OF ATTORNEYS' FEES AND COSTS - CASE
NO. 2:06-CV-02042-LKK-GGH

1 Section X of the Stipulated Order for Permanent Injunctive Relief entered by this Court on
2 October 7, 2008 provides that: "Plaintiffs' counsel are entitled to seek reasonable attorneys'
3 fees, litigation expenses, and costs for post-judgment work performed in conjunction with this
4 Injunction." The Court, having considered Plaintiffs' unopposed Motion to Establish a Periodic
5 Fees Process, and based on the argument of counsel, the entire record in this case, and good
6 cause appearing, hereby orders as follows:

7 1. A periodic fees process is appropriate and necessary under the Stipulated Order for
8 Permanent Injunctive Relief, the controlling statutes, the Americans with Disabilities Act, 42
9 U.S.C. § 12205, the Rehabilitation Act, 29 U.S.C. § 794a, 42 U.S.C. § 1988, and case law and
10 practice in numerous comparable cases.

11 2. Plaintiffs' counsel will submit quarterly statements to Defendants' counsel for
12 attorneys' fees, litigation expenses, and costs incurred. The statements will itemize the time
13 spent, subject activity, applicable attorney and other personnel billing rates, and costs and
14 expenses. The first quarterly statement of each year will identify the billing rates Plaintiffs'
15 counsel seek for that year. The billing statements submitted by Plaintiffs' counsel shall not
16 include declarations or other supporting pleadings. Such declarations or other supporting
17 pleadings shall be prepared only for and at the time of filing any motion to compel.

18 3. The first quarterly statement served pursuant to this Order will include all
19 Plaintiffs' attorneys' fees, expenses, and costs incurred from June 5, 2008 to December 31, 2008.
20 Because of the size and complexity of the first statement, Plaintiffs will have until March 2, 2009
21 to serve the first quarterly statement on Defendants. Thereafter, Plaintiffs will serve quarterly
22 statements on Defendants on or before 30 days after the end of each calendar quarter.

23 4. Upon receipt of Plaintiffs' statement each quarter, Defendants will have thirty days
24 in which to respond with their objections and the bases therefore. As to any disputed items,
25 including the proposed billing rates in the first quarterly statement, Plaintiffs' and Defendants'
26 counsel are required to meet and confer within thirty (30) days after Defendants have notified
27 Plaintiffs of any disputed item(s). If the parties are able promptly to resolve any part or all of the
28 fee disputes, counsel shall immediately prepare a stipulated order for payment of the fees not

1 subject to Defendants' objections. Both sides shall sign the order and present it to the Court for
2 entry. Defendants shall have forty-five days from the entry of the order to pay the undisputed
3 fees. Interest on these fees and costs will run from the date of the thirty-first day following
4 Defendants' receipt of Plaintiffs' statement, accruing at the rate provided by 28 U.S.C. §1961.

5 5. If Defendants refuse to sign any stipulated payment order, or unreasonably delay
6 the process described in paragraph 2 above, Plaintiffs' counsel may submit directly to the Court
7 an unstipulated form of order for collection of fees that are not disputed, together with a
8 certification of counsel under penalty of perjury setting forth the relevant facts and
9 circumstances. Defendants' counsel may respond within five court days of receipt of the
10 proposed order and certification. Plaintiffs' counsel may reply within two court days after
11 receipt of Defendants' response, if any. The Court will rule on Plaintiffs' application without
12 conducting a hearing unless it considers such a hearing necessary, and will issue Plaintiffs'
13 proposed order or another appropriate order unless Defendants show a reasonable basis for
14 disputing the fees and expenses Plaintiffs have claimed to be undisputed. If any party determines
15 that systematic problems in the meet and confer process have arisen, that party may move for
16 further modification of this process, by noticed motion made pursuant to the Federal Rules of
17 Civil Procedure and the Rules of this Court.

18 6. Plaintiffs will file a yearly motion to compel payment of disputed items, if
19 necessary, not later than sixty (60) days after the parties meet and confer with respect to the
20 statement covering the fourth quarter of each year. If Defendants oppose any billing rates,
21 Plaintiffs' counsel will bring a motion to compel on this issue within sixty (60) days following
22 conclusion of the meet and confer process for the first quarterly statement of each year.

23 7. In the event that an unusually large number of hours or a significant issue is in
24 dispute, Plaintiffs may bring a quarterly motion to compel on those issues alone. Any such
25 quarterly motion to compel will be filed no later than thirty (30) days after the parties have met
26 and conferred on the quarterly statement at issue. Such motions will be briefed and heard on the
27 usual schedule provided by the local rules.

1 8. Interest on any disputed amounts will accrue at the rate provided by 28 U.S.C.
2 §1961 from the thirty-first day following Defendants' receipt of the billing statement in which
3 the items in question appear.

4 9. Defendants shall pay the full amounts ordered paid, with any legal interest owing,
5 no later than forty-five (45) days after the date each payment order is entered by the Court. If
6 payment is not voluntarily made by the 45th day, counsel for Plaintiffs may obtain said amount
7 by writ of execution upon state funds and/or other appropriate amounts by certification under
8 penalty of perjury that voluntary payment has not been made.

9 IT IS SO ORDERED.

11 | Dated: February 11, 2009

LAWRENCE K. KARLTON
LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT