

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

IN RE INTERNATIONAL AIR  
TRANSPORTATION SURCHARGE  
ANTITRUST LITIGATION

No. M 06-01793 CRB  
**ORDER RE FEES**

\_\_\_\_\_  
This document relates to: ALL ACTIONS  
\_\_\_\_\_

On October 31, 2008, this Court issued an order awarding \$23 million in fees and costs in this complex case. The portion of this award allocated to non-lead counsel has already been distributed. Co-lead counsel’s costs have also been distributed. What remains is roughly \$17,859,008 to be allocated between co-lead counsel, who have been unable to agree on the percentage to which each is entitled.

Just before this Court sent co-lead counsel Cotchett, Pitre & McCarthy (“Cotchett”) and Hausfeld LLP (“Hausfeld”) to a mediator to try to resolve this fee dispute, each had expressed its belief as to the proper allocation: Cotchett proposed that Hausfeld receive 55% of the fee award and Cotchett 45%; Hausfeld proposed that Hausfeld receive 70% of the fee award and Cotchett 30%. Though the Court recognizes that these positions have separated somewhat further as this fee dispute has become more entrenched, these positions represented a mere 15% difference. The Court has decided to split the difference.

Co-counsel’s hours are nearly equal, though a straight lodestar calculation favors Hausfeld by about two to one. The court has determined that it is impossible to apply a set of criteria that would take into account and accurately weigh all of the many factors necessary

1 to divine a perfectly correct apportionment between the two counsel. In lieu of any such  
2 criteria, the Court splits the difference between co-counsel's earlier proposals, so that  
3 Hausfeld will receive 62.5% and Cotchett will receive 37.5%. That results in roughly  
4 \$11,161,880 in fees to Hausfeld, and roughly \$6,697,128 in fees to Cotchett. Each firm is  
5 thereby receiving a multiplier of more than four, which reflects their significant contributions  
6 to the resolution of this case.

7 **IT IS SO ORDERED.**

8  
9 Dated: July 10, 2009



10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  

---

CHARLES R. BREYER  
UNITED STATES DISTRICT JUDGE