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11
 12 UNITED STATES DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA

14 K.C., by and through Erica C., her guardian, et al.,) Case No. C-05-4077 (MMC)
 15 Plaintiff(s),)
 16 vs.) JOINT CASE MANAGEMENT STATEMENT
) & ~~PROPOSED~~ ORDER
 17 Tom Torlakson, in his official capacity as)
 18 Superintendent of Public Instruction for the State of)
 California, et al.,)
 19 Defendant(s).)
 20

21 The parties to the above-entitled action jointly submit this JOINT CASE MANAGEMENT
 22 STATEMENT & PROPOSED ORDER pursuant to the Standing Order for All Judges of the Northern
 23 District of California dated November 1, 2014 and Civil Local Rule 16-9.

24 1. Jurisdiction & Service

25 The Court has ruled that it will exercise its discretionary ancillary jurisdiction to hear plaintiffs'
 26 attorneys' fees motion.

27 2. Facts

28 Pursuant to the Court's order of March 20, 2015, the remaining disputed issue is the amount of

1 Plaintiffs' reasonable monitoring fees. Plaintiffs have set forth their view of the facts that are relevant
2 to the determination of the amount of reasonable attorneys' fees in their motion and supporting
3 memorandum. State Defendants have not yet specified each individual billing entry in which they
4 contend Plaintiffs may not recover fees but will do so in proceedings before the magistrate. State
5 Defendants, however, contend that no fees are awardable for services that were not reasonably
6 necessary to monitor State Defendants' compliance with the express terms of the settlement agreement,
7 including, but not limited to services that Plaintiffs' attorneys performed in connection with the pursuit
8 of claims of individuals made to LEAs. Plaintiffs contend that those services were necessary as a part
9 of their monitoring of State Defendants' compliance with the express terms of the settlement
10 agreement, particularly the provisions concerning targeted verification reviews and State Defendants'
11 complaint resolution system. Additionally, State Defendants contend that Plaintiffs spent more time
12 than was necessary in those activities in which they were monitoring the express terms of the settlement
13 agreement. Plaintiffs contend that their services were necessary as a part of their monitoring of State
14 Defendants' compliance with the settlement agreement, particularly the provisions concerning targeted
15 verification reviews and State Defendants' complaint resolution system. Plaintiffs also dispute that the
16 time spent monitoring was excessive.

17 3. Legal Issues

18 State Defendants contend that some of Plaintiffs' attorneys' work billed as part of the Plaintiffs'
19 "lodestar" is for work that was not reasonably necessary to the monitoring of State Defendants'
20 compliance with the express terms of the settlement agreement in this case and should be disallowed.
21 Plaintiffs contend that all the work for which they seek compensation was reasonably necessary to their
22 monitoring.

23 4. Motions

24 The only motions in this case that have been filed are the Plaintiffs' motion for attorneys' fees
25 and the State Defendants' request to file a motion (and a motion) for reconsideration. No other motions
26 are anticipated at this time.

27 5. Amendment of Pleadings

28 There will be no amendments of pleadings.

1 6. Evidence Preservation

2 The parties have reviewed the guidelines and they have met and conferred.

3 7. Disclosures

4 Not applicable.

5 8. Discovery

6 There has been no discovery taken. Plaintiffs do not intend to take discovery.

7 Given the nature of State Defendants' dispute that Plaintiffs' activities were not reasonably
8 necessary to monitor the express terms of the settlement agreement, it will be necessary for State
9 Defendants to undertake discovery regarding those activities.

10 9. Class Actions

11 This is not a class action.

12 10. Related Cases

13 There is no related case.

14 11. Relief

15 Plaintiffs seek \$284,963.75, based on a total of 959.10 hours from July 25, 2007 – August 23,
16 2010, plus their reasonable attorneys' fees and expenses for the work necessary in this Court and the
17 Ninth Circuit to resolve this motion for fees.

18 12. Settlement and ADR

19 The parties request that the Court refer the case to Magistrate Judge Joseph C. Spero for the
20 purposes of a settlement conference, and, if the parties do not settle, for a report and recommendations
21 on the amount of reasonable attorneys' fees that should be awarded.

22 13. Consent to Magistrate Judge For All Purposes

23 YES NO

24 14. Other References

25 This case is not suitable for reference to binding arbitration, a special master or the Judicial
26 Panel on Multidistrict Litigation.

27 15. Narrowing of Issues

28 The parties may be able to narrow issues in dispute that go to the reasonable amount of

1 Plaintiffs' monitoring fees.

2 16. Expedited Trial Procedure

3 Not applicable.

4 17. Scheduling

5 State Defendants request that this matter NOT be referred to a magistrate judge before their
6 pending motion for leave to file a motion for reconsideration, and the motion for reconsideration, is
7 resolved. If and when the matter is referred, the magistrate judge and the parties will need to schedule
8 discovery, a settlement conference, and other events necessary for the magistrate judge to complete the
9 matters referred to him.

10 18. Trial

11 Not applicable.

12 19. Disclosure of Non-party Interested Entities or Persons

13 Pursuant to Civil L.R. 3-15, the undersigned counsel for Plaintiffs certifies that as of this date,
14 other than the named parties, there is no such interest to report. Plaintiffs have filed the required
15 certification. The defendants are governmental entities or agencies.

16 20. Professional Conduct

17 All attorneys of record for the parties have reviewed the Guidelines for Professional Conduct
18 for the Northern District of California.

19 21. Other

20
21 DATED: April 17, 2015

/s/ Donna Brorby
DONNA BRORBY
Attorneys for Plaintiffs

22
23
24 DATED: April 17, 2015

/s/Ava Yajima
PAUL E. LACY
AVA C. YAJIMA
Attorneys for Defendants, California Department of Education

1 CASE MANAGEMENT ORDER

2 The above JOINT CASE MANAGEMENT STATEMENT & PROPOSED ORDER is approved
3 as the Case Management Order for this case and all parties shall comply with its provisions. This matter
4 is referred to Magistrate Judge Joseph C. Spero for the purpose of overseeing the parties' process
5 towards resolving the amount of reasonable attorneys' fees and costs incurred for monitoring
6 compliance with the express terms of the parties' settlement agreement and their reasonable attorneys'
7 fees and expenses for the work necessary in this Court and the Ninth Circuit to resolve this motion for
8 fees. The Magistrate Judge shall hold a settlement conference(s). If the matter of the amount of
9 reasonable attorneys' fees is not resolved by settlement, the Magistrate Judge shall give both parties a
10 full opportunity to provide him with all relevant information and he shall prepare a report and
11 recommendations on the reasonable amount of monitoring fees. The parties will be permitted the
12 opportunity to seek de novo review of the Magistrate Judge's recommendations, based on the evidence
13 that was provided to the Magistrate Judge.

14
15 IT IS SO ORDERED.

16
17
18 DATED: April 24, 2015


UNITED STATES DISTRICT MAGISTRATE JUDGE