

United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

L.R., a minor, by and through her parents,)	Case No.: 5:13-MC-80085-EJD
)	
Plaintiff,)	ORDER GRANTING IN PART
)	PLAINTIFF’S MOTION FOR
v.)	ATTORNEYS’ FEES
)	
HOLLISTER SCHOOL DISTRICT,)	
)	
Defendant.)	[Re: Docket Nos. 1, 3]
)	
)	

Plaintiff L.R., a minor, by and through her parents (“Plaintiff”) moves for an award of attorneys’ fees under the Individuals with Disabilities Education Act (“the IDEA”), 20 U.S.C. § 1415(i)(3)(B). The court has jurisdiction over this action pursuant to 20 U.S.C. § 1415(i)(3)(A). The court found this matter suitable for decision without oral argument pursuant to Civil Local Rule 7-1(b) and previously vacated the hearing. Having reviewed the parties’ arguments, the court GRANTS IN PART and DENIES IN PART Plaintiff’s Motion for Attorneys’ Fees.

I. BACKGROUND

This action arises out of a dispute between Plaintiff and Defendant Hollister School District (“the District”) pertaining to the educational support that the District provided to Plaintiff, who is a five-year old girl born with Down syndrome. Pursuant to the IDEA, Plaintiff qualifies for special education services that ensure a free appropriate public education (“FAPE”) in the least restrictive

1 environment (“LRE”) through the implementation of an Individualized Education Program
2 (“IEP”), 20 U.S.C. §§ 1412(a).

3 The District scheduled and held an initial IEP team meeting on May 17, 2010, during which
4 it offered Plaintiff occupational therapy services. Plaintiff’s parent was present but did not consent
5 to the proposed form of occupational therapy services. L.R. v. Hollister Unified Sch. Dist.,
6 California Office of Administrative Hearings (OAH) Case Number 2012080366 (“ALJ Decision”)
7 at 8, Docket Item No. 1, Ex. 1. The IEP team met again on September 27, 2010, to discuss the
8 same issue; Plaintiff’s parent attended and this time agreed with the District’s amended proposal.
9 Id. For two months in the beginning of the 2011-2012 school year, Plaintiff attended an Early Start
10 preschool class, as well as a Head Start class at the District. Id. at 5. On September 16, 2011,
11 Plaintiff’s two teachers held a meeting with her parent to discuss her progress. Id. at 7. They
12 decided to transfer Plaintiff to a smaller Early Start class. Id. Plaintiff’s parent agreed with the
13 placement, and the teacher of that smaller class volunteered to act as a temporary aide to assist with
14 Plaintiff’s transition. Id.

15 On May 22, 2012, an IEP meeting was held to discuss Plaintiff’s transition from preschool
16 to kindergarten. Id. at 8. At that meeting, no general education teacher was present. Id. at 8.
17 Plaintiff’s parents requested that she be placed in a full inclusion classroom for the 2012-2013
18 school year. Plaintiff’s Request for Due Process Hearing, Docket Item No. 7, Ex. 2 at 5. The
19 District explained that such a placement was not possible at Plaintiff’s neighborhood school and
20 that it would need more time to further explore the full inclusion option. Id. For this reason, that
21 IEP meeting reflected “no changes” to the previous offer of placement. Id. At the next meeting on
22 July 19, 2012, in which again no general education teacher was present, there was an extensive
23 discussion of Plaintiff’s placement options but eventually Plaintiff’s parents did not consent to the
24 District’s placement proposal. As a result Plaintiff spent the 2012-2013 school year in her “stay-
25 put” placement and her parents decided to take legal action. Id. at 5, see also Hollister School
26 District’s Closing Brief, Docket Item No. 7, Ex. 3 at 5-6.

1 On August 9, 2012, Plaintiff filed a request for a due process hearing (“Complaint”) before
2 an Administrative Law Judge (“ALJ”). In the Complaint, Plaintiff alleged that the District denied
3 her a FAPE under the IDEA by:

- 4 (1) failing to have a general education teacher present at the IEP team meetings held on
5 September 16, 2011, May 22, 2012, and July 19, 2012 (“Issue 1”);
- 6 (2) failing to provide her with a placement in the least restrictive environment at the IEP
7 team meetings held on May 22 and July 19, 2012 (“Issue 2”); and
- 8 (3) failing to provide her with adequate occupational therapy services from August 2010 to
9 July 2011, and from August 2012 onwards (“Issue 3”); Dkt. No. 1, Ex. 1 at 2.

10 To redress the District’s alleged violations of the IDEA, Plaintiff requested that the District provide
11 her with:

- 12 (1) a full-inclusion placement with appropriate supplementary aids and services, including
13 an independent inclusion specialist experienced in working with students with Down’s
14 Syndrome;
- 15 (2) a full time 1:1 appropriately trained instructional aide to assist Plaintiff year round;
- 16 (3) compensatory education in all areas of need by a non-public agency; and
- 17 (4) reimbursement of her Parents’ reasonable attorneys’ fees and costs.

18 Id.

19 The District scheduled and held an additional IEP team meeting after the filing of the
20 Complaint, on September 25, 2012. Id. at 4. In this meeting the team reiterated the proposal of the
21 July 19 meeting, namely, a mix of regular and special education with a 1:1 aide, speech and
22 language therapy, and occupational therapy consultation. Dkt. No. 7, Ex. 3 at 9. Even though this
23 meeting did include a general education teacher, therefore curing the procedural defect, Plaintiff’s
24 parents declined to attend or consent to the proposal, instead proceeding with the due process
25 hearing. Dkt. No. 1, Ex. 1 at 4.

26 Approximately forty days before the scheduled due process hearing, on October 18, 2012,
27 the District made a settlement offer (“Offer”) to L.R.’s parents. The Offer proposed seventy-five
28 (75) hours of compensatory education of two different varieties to be decided at the parents’

1 discretion, implementation of Plaintiff's May annual IEP as modified by subsequent IEP meetings,
2 including the September 25, 2012 IEP meeting, and payment of reasonable attorneys' fees incurred
3 on or before the date of the Offer. Letter from Daniel A. Osher to Natashe Washington (Oct. 18,
4 2012) ("Offer Letter"), Docket Item No. 1, Ex. 2 at 15-16. Plaintiff did not reply to the Offer.

5 The ALJ held a due process hearing on November 27-29, 2012, and issued a decision on
6 January 16, 2013. Dkt. No. 1, Ex. 1 at 1. The District prevailed on Issue 1 with respect to the
7 September 16, 2011 IEP team meeting; Plaintiff prevailed on Issue 1 as to the May 22 and July 19,
8 2012 IEP team meetings; neither party prevailed on Issue 2; and the District prevailed on Issue 3
9 with respect to occupational therapy from August 2010 to July 2011 and Plaintiff prevailed on
10 Issue 3 with respect to occupational therapy from August 2012 to the present. Id. at 17-18. The
11 ALJ ordered the District to provide Plaintiff with forty-six (46) hours of social skills training or
12 extracurricular activities, offered by adequately experienced providers to be selected by parents
13 from a list drawn up by the District. Id. The ALJ also ruled that "[a]ll other requests for relief are
14 denied," and held that both Plaintiff and District prevailed partially. Id.

15 Plaintiff now moves for an award of attorneys' fees and costs of \$62,541.08 for services
16 rendered in connection with the due process hearing and up to the instant motion, and \$11,260 in
17 fees and costs associated with Plaintiff's instant motion, for a total award of \$73,801.08. Plaintiff's
18 Motion for Attorneys' Fees, Docket Item No. 1 at 2. The amount of \$62,541.08 consists of
19 attorneys' fees incurred before the District's Offer (\$13,311.50 incurred up to October 18, 2012,
20 when Plaintiff received District's Offer), attorneys' fees after the date of the Offer through the due
21 process hearing (\$47,489.00), and costs (\$1,740.58). Itemized Attorneys' Fees Invoice, Docket
22 Item 1, Ex. 2 at 1. The District opposes the requested fee award, claiming that Plaintiff should not
23 be awarded any attorneys' fees, but that if the court elects to award fees, the amount should be
24 reduced to \$1,109.29 due to Plaintiff's minimal degree of success. Defendant's Opposition to
25 Motion for Attorneys' Fees, Docket Item 7 at 1.

26 II. LEGAL STANDARD

27 The IDEA provides that "the court, in its discretion, may award reasonable attorneys' fees
28 as part of the costs to a prevailing party who is the parent of a child with a disability."

1 Los Angeles Unified Sch. Dist., 461 F.3d 1114, 1117 (9th Cir. 2006) (citing 20 U.S.C. §
2 1415(i)(3)(B)(i)). In order for a court to award attorneys’ fees, the parent must (1) be a prevailing
3 party and (2) seek reasonable attorneys’ fees.” Id. (citation and internal quotation marks omitted).

4 A prevailing party may not be awarded attorneys’ fees for services rendered after a written
5 settlement offer is made if: (i) the offer is made within the time prescribed by Rule 68 of the
6 Federal Rules of Civil Procedure or, in the case of an administrative proceeding, at any time more
7 than 10 days before the proceeding begins; (ii) the offer is not accepted within 10 days; and (iii) the
8 court or administrative hearing officer finds that the relief finally obtained by the parents is not
9 more favorable to the parents than the offer of settlement. 20 U.S.C. § 1415(i)(3)(D)(i). However,
10 even if the District demonstrates the above conditions, a prevailing parent may nonetheless obtain
11 attorneys’ fees if the parent was “substantially justified” in rejecting the offer. 20 U.S.C. §
12 1415(i)(3)(D).

13 III. DISCUSSION

14 A. Plaintiff’s fees incurred after the Offer was made are not awarded because Plaintiff was 15 not substantially justified in rejecting the Offer.

16 A plaintiff will not be awarded attorneys’ fees incurred in proceeding under the IDEA
17 where she has rejected a valid written offer of settlement and the relief finally obtained is no more
18 favorable than that which was offered to settle the dispute, when the rejection was not substantially
19 justified. See 20 U.S.C. § 1415(i)(3). Here, it is undisputed that Plaintiff rejected a settlement offer
20 and proceeded to a due process hearing. However, Plaintiff contends that the Offer was invalid and,
21 moreover, that her rejection of the offer was substantially justified.

22 1) The Settlement Offer was valid.

23 Plaintiff contends that the District’s Offer is void because it did not meet all legal
24 requirements for a valid Rule 68 offer. Specifically, Plaintiff contends that the Offer was
25 inadequate because it did not specify a definite sum and it was contingent upon a final formal
26 settlement agreement, whereas courts’ requirements for Rule 68 offers include that such offers
27 specify a definite sum and that they be unconditional. Dkt. No. 1 at 17-18, citing Herrington v.
28 Cnty. of Sonoma, 12 F.3d 901, 907 (9th Cir. 1993). Under the IDEA, a settlement offer must be

1 “made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure.” 20 U.S.C. §
2 1415(i)(3). By its own terms, the statute speaks only to the time frame provided by Rule 68; it does
3 not prescribe that the settlement offer under the IDEA follow every other requirement applicable to
4 Rule 68 settlement offers. That the District invoked Rule 68 in its Offer by writing that the “offer
5 of settlement is made pursuant to 20 U.S.C. section 1415(i)(3)(D) and Rule 68” (Dkt. No. 1, Ex 2
6 at 15) does not necessarily render the Offer susceptible to Rule 68’s content requirements. Without
7 authority supporting a contrary interpretation, the court will apply only the timing requirement of
8 Rule 68. Therefore, the lack of a specific sum and the mention of a subsequent formal settlement
9 agreement do not invalidate the District’s Offer under the IDEA.

10 **2) The final relief obtained was less favorable than the Settlement Offer.**

11 Regarding the final relief obtained by the parents, the court has examined the record and
12 finds that such relief was significantly less favorable than what the District proposed in its
13 Settlement Offer. First, the District offered seventy-five hours of compensatory education, while
14 the ALJ awarded only forty-six hours. Second, the District proposed that the services could be used
15 for any subject preferred by the parents, including but not limited to core academics or social skills;
16 in contrast, the ALJ ordered that the compensatory education be limited to social skills instruction.
17 Third, the Offer proposed that the services would be provided by a mutually agreeable special
18 education teacher; however, the ALJ gave the District greater discretion in selecting the service
19 provider, allowing the District to make a selection of three qualified individuals from which the
20 parents could choose one. Lastly, the Offer suggested that the District pay reasonable attorneys’
21 fees incurred on or before the date of the Offer, whereas the ALJ presumably did not award any
22 attorneys’ fees, given the ruling that “[a]ll other requests for relief are denied.”

23 Plaintiff contends that the mere finding of FAPE denial by the ALJ constitutes relief more
24 favorable than that contained in the Offer. The court disagrees. The finding of a FAPE denial is not
25 a remedy in and of itself; rather, it is the threshold determination that the hearing officer must make
26 before any relief can be awarded. 20 U.S.C. § 1415(f)(3)(E)(i). Upon determining that FAPE has
27 been denied, the court is empowered to “grant such relief as [it] determines is appropriate.” 20
28 U.S.C. § 1415(i)(2)(C)(iii). Federal courts have interpreted “appropriate relief” to include

1 compensatory education. R.P. ex rel. C.P. v. Prescott Unified Sch. Dist., 631 F.3d 1117, 1126 (9th
2 Cir. 2011). Therefore, the relief in this case was not the finding of a FAPE denial, but the award of
3 compensatory education. See Reid ex. rel. Reid v. Dist. of Columbia, 401 F.3d 516, 518 (D.C. Cir.
4 2005). Given the considerations presented above, the court finds that the relief obtained through the
5 due process hearing was less favorable than the relief presented in the Offer.

6 **3) Plaintiff was not substantially justified in rejecting the District’s Offer.**

7 Under the IDEA an award of attorneys’ fees and related costs may be made to a parent who
8 rejects a valid settlement offer and ultimately becomes a prevailing party if the court finds that the
9 rejection was substantially justified. 20 U.S.C. § 1415(i)(3)(E). “While there is a paucity of
10 precedent interpreting the phrase ‘substantially justified,’ most courts addressing the issue have
11 found substantial justification when a plaintiff had a good faith, reasonable belief that her eventual
12 recovery would be higher than the offer.” JP ex rel. Peterson v. Cnty. Sch. Bd. of Hanover Cnty.,
13 Va., 641 F. Supp. 2d 499, 508 (E.D. Va. 2009), citing B.L. through Lax v. Dist. of Columbia, 517
14 F. Supp. 2d 57, 61 (D.D.C. 2007) (parents were substantially justified in refusing offer when
15 recoverability of expert costs under the IDEA was still in question and offer did not include those
16 costs). For example, substantial justification for rejection would include relevant pending court
17 decisions, which could have an impact on the case in question. See B.L., 517 F.Supp.2d at 61.
18 Similarly, a split of legal authority on a relevant issue could give rise to substantial justification.
19 See R.N. v. Suffield Bd. of Educ., 194 F.R.D. 49, 53 (D. Conn. 2000).

20 Plaintiff claims that the rejection of the Offer was justified because there was no dollar
21 amount set for the attorneys’ fees and because the District offered to implement annual IEPs that
22 were found procedurally lacking due to the absence of a general education teacher, i.e., the IEP
23 meetings of May 22 and July 19, 2012. Dkt. No. 1 at 16-18. As discussed in Section III.A.1 above,
24 the lack of a specific dollar amount did not invalidate the Settlement Offer and does not provide
25 grounds for rejecting it. As to the IEP meetings, the full text of the District’s Offer Letter shows
26 that the District suggested implementing that annual IEP “as modified by subsequent amendment
27 IEPs, including the September 25, 2012, amendment IEP.” Dkt. No. 1, Ex. 2 at 15. The full
28 sentence reveals the District’s willingness to hold subsequent, procedurally correct, IEP meetings

1 in order to come to a resolution. Under these circumstances, Plaintiff has not demonstrated
2 substantial justification for rejecting the Settlement Offer.

3 **B. Because Plaintiff was a prevailing party, Plaintiff’s fees incurred before the Settlement**
4 **Offer was made are awarded, reduced according to Plaintiff’s degree of success.**

5 Having found that the Offer was valid, that the relief ultimately awarded to Plaintiff was
6 less favorable to the relief contained in the Offer, and that Plaintiff was not substantially justified in
7 rejecting the Offer, the court need not award attorneys’ fees for services rendered past the date of
8 the Offer. However, the court may still consider Plaintiff’s claims for fees for services rendered up
9 until the date of the Offer. Plaintiff requests an award for fees in the amount \$13,311.50 through
10 the date of the Offer. Dkt. No. 1, Ex. 2 at 1-3. In order to prevail on her request for these fees,
11 Plaintiff must show that she (1) is a prevailing party and (2) seeks reasonable attorneys’ fees. 20
12 U.S.C. § 1415(i)(3)(B)(i).

13 **1) Plaintiff is a prevailing party and the success is not considered “de minimis.”**

14 A prevailing party for the purpose of awarding attorneys’ fees is a party that “succeed[s] on
15 any significant issue in litigation which achieves some of the benefit the [party] sought in bringing
16 the suit.” Hensley v. Eckerhart, 461 U.S. 424, 433 (1983) (citation omitted). To be considered a
17 “prevailing party” a party must show that the judgment resulted in a “material alteration of the
18 legal relationship of the parties.” Shapiro v. Paradise Valley Unified Sch. Dist. No. 69, 374 F.3d
19 857, 865 (9th Cir. 2004) (citing Buckhannon Bd. & Care Home, Inc. v. W. Va. Dep’t of Health &
20 Human Res., 532 U.S. 598, 598 (2001)). A change in the parties’ legal relationship occurs when
21 the court orders relief on the merits. Buckhannon, 532 U.S. at 603-04 (“[A] ‘prevailing party’ is
22 one who has been awarded some relief... [E]nforceable judgments on the merits ... [are] necessary
23 to permit an award of attorneys’ fees.”); Hewitt v. Helms, 482 U.S. 755, 760 (1987) (“Respect for
24 ordinary language requires that a plaintiff receive at least some relief on the merits of his claim
25 before he can be said to prevail.”); see, e.g., Park v. Anaheim Union High Sch. Dist., 464 F.3d
26 1025, 1035 (9th Cir. 2006) (finding the legal relationship changed where defendant school district
27 was ordered to provide plaintiff with compensatory education). Where the court does not grant at
28 least some relief on the merits, there is not an adequate change in the legal relationship on the basis

1 of which the court can grant fees. See, e.g., Hewitt, 482 U.S. at 760 (awarding no fees under 42
2 U.S.C. § 1988 because, although plaintiff’s constitutional rights had been violated, no specific
3 relief was awarded). The Ninth Circuit has explicitly adopted Buckhannon’s “change in legal
4 relationship” standard for IDEA cases and courts have used the standard consistently. See, e.g.,
5 Parents of Student W v. Puyallup Sch. Dist., No. 3, 31 F.3d 1489, 1498 (9th Cir. 1994) (applying
6 the legal relationship test).

7 Here, the District argues that because the denial of FAPE found by the ALJ was
8 “procedural” in nature, it may be equated to a “technical,” or merely “de minimis” success. The
9 court disagrees: the change in the parties’ relationship in this case is not a de minimis one. The ALJ
10 found that the District denied Plaintiff a FAPE by holding an IEP meeting without including a
11 general education teacher. While this denial may well constitute a procedural violation, its
12 procedural nature does not render it any less important to ensuring Plaintiff receives what FAPE
13 stands for: a free and appropriate education for the child. Under the IDEA, a general education
14 teacher must be present for IEP meetings, unless both the parent and the school consent to the
15 absence in writing. 20 U.S.C. § 1414(d)(1)(C). Neither party provided such consent in this case.
16 Moreover, as discussed above, the ALJ awarded relief, including compensatory education, in light
17 of the finding that the absence of a general education teacher constituted a denial of FAPE in these
18 particular circumstances. Accordingly, here, the ALJ’s ruling materially altered the relationship
19 between the parties, rendering Plaintiff a prevailing party. See V.S. ex rel. A.O. v. Los Gatos–
20 Saratoga Joint Union High Sch. Dist., 484 F.3d 1230, 1233 (9th Cir. 2007) (holding that an
21 alteration is “material” if it “require[s] the [school district] to do something [it] otherwise would
22 not have to do”).

23 **2) Plaintiff’s partial degree of success warrants a 50% deduction in attorneys’ fees.**

24 Having found Plaintiff to be a prevailing party, the court must next determine whether she
25 is entitled to a full award of attorneys’ fees. The determination of prevailing party status does not
26 automatically entitle a party to a full recovery of fees. In fact, “[i]n some circumstances, even a
27 plaintiff who formally ‘prevails’ ... should receive no attorney’s fees at all.” Farrar v. Hobby, 506
28 U.S. 103, 115 (1992). “A reduced award is appropriate if the relief, however significant, is limited

1 in comparison to the scope of the litigation as a whole.” Hensley, 416 U.S. at 440. Thus, the court
2 must analyze the “degree of success” achieved in order to determine the amount of attorneys’ fees
3 to which Plaintiff is entitled. See Aguirre, 461 F.3d at 1119–20 (applying Hensley to IDEA
4 claims).

5 While a district court has “wide latitude” to exercise discretion in evaluating attorneys’ fees
6 in IDEA cases (Id. at 1122 (Pregerson, J. concurring)), the Supreme Court has provided some
7 guidance on how to correlate the degree of success the party achieved with the amount of fees to be
8 rewarded:

9
10 Where a plaintiff has obtained excellent results, his attorney should recover a fully
11 compensatory fee. Normally this will encompass all hours reasonably expended on the
12 litigation, and indeed in some cases of exceptional success an enhanced award may be
13 justified. In these circumstances the fee award should not be reduced simply because the
14 plaintiff failed to prevail on every contention raised in the lawsuit. If, on the other hand, a
15 plaintiff has achieved only partial or limited success, the product of hours reasonably
16 expended on the litigation as a whole times a reasonable hourly rate may be an excessive
17 amount. This will be true even where the plaintiff’s claims were interrelated, non-frivolous,
18 and raised in good faith.

19 Hensley, 461 U.S. at 435–36. As alluded to by the Court, in some cases the issues presented are
20 readily separable and thus easily susceptible to a straightforward degree-of-success calculation. See
21 J.C. v. Vacaville Unified Sch. Dist., 2007 WL 112138 (E.D. Cal. 2007) (where plaintiff challenged
22 the education program for five consecutive school years, the claims were easily distinguishable per
23 school year). In other cases, however, the issues are not so distinct and the court must factor in “the
24 extent of relief ordered by the ALJ” in order to determine the degree of success. S.A. v. Patterson
25 Joint Unified Sch. Dist., 2010 WL 3069204 (E.D. Cal. 2010) at *13.

26 Here, though Plaintiff is a prevailing party, she did not prevail completely on all issues
27 presented to the ALJ. Instead, Plaintiff partially prevailed on the two issues actually decided by the
28 ALJ and, as described in detail in Section III.A.2, received only a fraction of the relief requested.
Under these circumstances, it cannot be said that Plaintiff obtained “excellent results” that would
entitle her to a full attorneys’ fee award. Moreover, in IDEA cases the court may reduce attorneys’
fees where the parent or the parent’s attorney unreasonably protracted the final resolution of the
controversy. 20 U.S.C. § 1415(i)(3)(F)(i). Here, the District reached out to Plaintiff with a valid

1 settlement offer. Despite having ample time until the due process hearing (about forty days),
2 Plaintiff did not discuss the Offer or any concerns she might have had with the District. In fact,
3 Plaintiff did not reply to the Offer at all, instead choosing to proceed to the due process hearing
4 without negotiation. Plaintiff does not provide the court with her rationale for doing so. Under
5 these circumstances, the court finds that a reduction in attorneys' fees is appropriate. Accordingly,
6 based on Plaintiff's degree of success, the relief afforded her, and her protraction of resolution of
7 the controversy, the court will reduce its attorneys' fees award by 50%.

8 **3) The attorneys' fees requested are reasonable, except for fees for clerical tasks, which**
9 **shall be deducted.**

10 Next, the court must determine the amount of attorneys' fees to which Plaintiff is entitled.
11 The lodestar figure, which multiplies the number of hours reasonably expected by the reasonable
12 hourly rate, is used as a starting point to determine reasonable attorneys' fees. Hensley, 461 U.S. at
13 433. The lodestar figure is "presumed to be the reasonable fee to which counsel is entitled."
14 Pennsylvania v. Delaware Valley Citizens Council for Clean Air, 478 U.S. 546, 564 (1986),
15 quoting Blum v. Stenson, 465 U.S. 886, 897 (1984). Hours billed for administrative tasks are not
16 compensable. G.R. v. Brentwood Union Sch. Dist., 2013 WL 3369259 (N.D. Cal. 2013) at *4,
17 citing Nadarajah v. Holder, 569 F.3d 906, 921 (9th Cir. 2009) (holding that tasks "clerical in
18 nature" should be "subsumed in firm overhead rather than billed" and that "[w]hen clerical tasks
19 are billed at hourly rates, the court should reduce the hours requested to account for the billing
20 errors").

21 Plaintiff requests \$13,311.50 for attorneys' fees incurred through the date of the Offer. The
22 parties do not appear to dispute that this amount is reasonable. However, the District does take
23 issue with several charges for clerical tasks. The court agrees that, with the exception of the task
24 dated 7/3/12 (\$422.50), all items on the District's List of Clerical Tasks do constitute clerical tasks
25 that are not compensable. Docket Item No. 7, Ex. 4. Accordingly, the court will deduct \$877.50
26 from the requested attorneys' fees and thus will award the amount of \$6,217.00, after accounting
27 for the 50% reduction discussed in the previous section.
28

1 **C. Attorneys' fees incurred for the preparation of the instant motion shall be awarded,**
2 **reduced by 50% as per Plaintiff's degree of success, after deduction of the estimate**
3 **amount for oral argument.**

4 The court will also award Plaintiff attorneys' fees in connection with the instant motion,
5 subject to the 50% reduction. See, e.g., Brentwood, 2013 WL 3369259 at *5. According to
6 Plaintiff's Motion, Plaintiff incurred \$11,260.00 in fees and costs for preparation of the instant
7 motion. Dkt. No. 1 at 2. This amount consists of \$5,400.00 and \$3,700.00, incurred respectively by
8 Plaintiff's attorneys Ms. Washington and Mr. Kim in preparation of the instant motion, as well as
9 of \$2,160.00 in fees estimated to be incurred by Ms. Washington in preparation of and appearance
10 for oral argument. Docket Item No. 1, Ex. 5 at 4. As no oral argument was held on this motion, the
11 court deducts the \$2,160.00 for argument preparation. After removing this category of fees and the
12 50% reduction, the resulting reward is \$4,550.00.

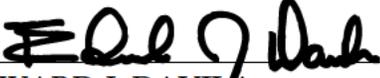
13 **IV. CONCLUSION**

14 In light of the above findings, the court hereby GRANTS IN PART Plaintiff's Motion for
15 Attorneys' Fees. The total amount of attorneys' fees to which Plaintiff's counsel is entitled is
16 \$10,767.00. This amount is comprised of \$6,217.00 for fees incurred in connection with the
17 underlying action through the Offer date after the 50% reduction, and \$4,550.00 in connection with
18 the instant motion, also after the 50% reduction. Plaintiff also claimed costs of \$1,740.58 as "non-
19 taxable expenses." However, this amount has not been substantiated with details on dates and
20 explanations, and will therefore not be awarded. Accordingly, the total award of fees to Plaintiff's
21 counsel pursuant to 20 U.S.C. § 1415(i)(3)(B) is \$10,767.00.

22 Since this order resolves the sole issue before the court, the clerk shall CLOSE this file.

23 **IT IS SO ORDERED**

24 Dated: March 19, 2014

25 
26 EDWARD J. DAVILA
27 United States District Judge
28