



1 “resolve [...] between themselves” which entity is responsible for paying any fees. *Id.* at 25:11-14.  
2 No order awarding fees followed, and this case was reassigned to the undersigned on December 3,  
3 2012. *See Doc. #594.*

#### 4 DISCUSSION

5 The Court will not revisit the previous magistrate’s determination that sanctions are  
6 appropriate, and will award Plaintiff reasonable costs and fees. Reasonable attorney fees must “be  
7 calculated according to the prevailing market rates in the relevant community,” considering the fees  
8 charged by “lawyers of reasonably comparable skill, experience, and reputation.” *Blum v. Stenson*,  
9 465 U.S. 886, 895-96 n. 11, 104 S.Ct. 1541 (1984). Courts typically use a two-step process when  
10 determining fee awards. *Fischer v. SJB-P.D. Inc.*, 214 F.3d 1115, 1119 (9th Cir. 2000). First, the  
11 Court must calculate the lodestar amount “by taking the number of hours reasonably expended on  
12 the litigation and multiplying it by a reasonable hourly rate.” *Id.* Furthermore, other factors should  
13 be taken into consideration such as special skill, experience of counsel, and the results obtained.  
14 *Morales v. City of San Rafael*, 96 F.3d 359, 364 n. 9 (9th Cir. 1996). “The party seeking an award  
15 of fees should submit evidence supporting the hours worked and rates claimed,” and “[w]here the  
16 documentation of hours is inadequate, the district court may reduce the award accordingly.”  
17 *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983). Second, the Court “may adjust the lodestar, [only  
18 on rare and exceptional occasions], upward or downward using a multiplier based on factors not  
19 subsumed in the initial calculation of the lodestar.” *Van Gerwen v. Guarantee Mut. Life Co.*, 214  
20 F.3d 1041, 1045 (9th Cir. 2000).

21 Plaintiff submitted an Affidavit (#29) detailing the costs incurred in preparing for the  
22 settlement conference on December 2, 2011. Mr. Hafter argues his reasonable hourly rate is  
23 \$450.00 and Mr. Naethe’s is \$350.00. Mr. Hafter represents that he spent 13.75 hours preparing  
24 Plaintiff’s settlement brief, and that Mr. Naethe spent 27 hours. The settlement conference,  
25 according to the Affidavit, lasted five hours. The Hearing on the Order to Show Cause lasted one  
26 hour. Plaintiff also represents that he cancelled a surgery to attend the conference, for which he  
27 would have been remunerated \$1,700.00. *See Doc. #329, Exh. C.* Based on Mr. Hafter’s  
28 representations, however, Plaintiff may have been able to conduct the surgery at a later date, *see*

1 *Transcr. of Hearing* at 7, and the Court will not include the lost income in its award of fees.

2 Mr. Hafter has 12 years of experience as an attorney, and Mr. Naethe has 8. The Court  
3 finds that a blended hourly rate of \$300.00 for the preparation of Plaintiff's settlement brief is  
4 commensurate with the skill, experience, and reputation of Mr. Hafter and Mr. Naethe.

5 Considering the reasonable amount of time required to draft a settlement brief and the benefits  
6 obtained from drafting a brief beyond use at a settlement conference, the Court will award Plaintiff  
7 fees for 20 hours of preparation. The Court will also award fees for Plaintiff's attendance at the  
8 settlement conference at an hourly rate of \$350.00 for Mr. Hafter and \$250.00 for Mr. Naethe. The  
9 Court will award fees for Mr. Hafter's attendance at the Hearing at an hourly rate of \$350.00.

10 Accordingly,

11 **IT IS HEREBY ORDERED** that Defendants shall pay Plaintiff \$9,600.00 in attorneys'  
12 fees.

13 **IT IS FURTHER ORDERED** that, in accordance with Mr. Cook's representations at the  
14 Order to Show Cause Hearing, Defendant UMC and Chartis shall determine which entity is  
15 responsible for paying the awarded fees.

16 DATED this 19th day of February, 2013.

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19 GEORGE FOLEY, JR.  
20 United States Magistrate Judge  
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