

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SAM JOHNSON, *on behalf of himself and
all others similarly situated*,

Plaintiff,

v.

JENNIFER SHAFFER, et al.,

Defendants.

No. 2:12-cv-01059 KJM AC P

**ORDER GRANTING PLAINTIFFS'
UNOPPOSED MOTION FOR
ATTORNEYS' FEES AND COSTS**

This matter comes before the Court upon consideration of Plaintiffs' Unopposed Motion for Attorneys' Fees and Costs. See ECF No. 86. Having considered the briefing in support of the motion, any responses received from class members, relevant legal authority, and the record in this case, the Court finds good cause to GRANT the motion.

The Amended Stipulated Settlement in this matter, ECF No. 83, provides that Defendants would not oppose Plaintiffs' motion for fees and costs as long as the requested total award did not exceed \$120,000.¹ Plaintiffs' motion seeks an award of \$119,796.05. Pursuant to Federal Rule of Civil Procedure 23(h), class members were informed about the fee request in the Class Notice, and a full copy of the Stipulated Settlement was made available to all class members in the prison

¹ This matter is decided on the papers, without oral argument, because the motion remains unopposed. See Amended Stipulated Settlement, ECF No. 83 at 6:22-7.

libraries. Class members were afforded an opportunity to comment on or object to the Stipulated Settlement or the award of fees.

After review of all briefing and evidence presented, this Court finds that the requested award of \$119,796.05 is fair and reasonable. Plaintiffs' action sought to compel the Board of Parole Hearings to reform its forensic assessment protocol. The settlement achieves just that: Among other things, Defendants have agreed to provide additional training for commissioners on recidivism and how to interpret risk assessments; to provide more timely assessment reports; to establish a formal appeal process through which members of the plaintiff class may correct errors in psychological reports before they are considered by commissioners in determining parole suitability; and to insert clarifying language into the reports that explains the tests and risk ratings used. See Amended Stipulated Settlement, ECF No. 83 at 3-5.

To reach this result, Plaintiffs spent roughly four years investigating and litigating this matter. Plaintiffs conducted extensive discovery, which involved numerous depositions of Board officials and Board psychologists as well as production of training materials, reports, and other documents. Defendants vigorously contested the claims; as a result, Plaintiffs had to expend significant time and resources in opposing Defendants' motion to dismiss, motion for summary judgment, and motion for judgment on the pleadings; in litigating class certification; and in addressing numerous other matters including discovery disputes.

The fee request reasonably reflects the time and labor required to litigate this matter, and was calculated pursuant to the lodestar method: Plaintiffs' counsel kept contemporaneous time records detailing the hours worked on the case and the nature of each task completed. Wattley Decl., ¶ 8. Although counsel represented Plaintiffs without charge, counsel exercised the same billing judgment applied to privately billed clients. Wattley Decl., ¶ 8. Gonzalez v. City of Maywood, 729 F.3d 1196, 1202 (9th Cir. 2013) ("Ultimately, a 'reasonable' number of hours equals '[t]he number of hours . . . [which] could reasonably have been billed to a private client.") (citations omitted, alterations in original).

The lodestar method of calculating fees is strongly presumed to be reasonable. Oviatt v. Pearce, 954 F.2d 1470, 1482 (9th Cir. 1992) ("There is a strong presumption that the lodestar

figure is reasonable, and adjustments are to be adopted only in exceptional cases.”); Morales v. City of San Rafael, 96 F.3d 359, 363 n.8 (9th Cir. 1996). In the present case, application of the lodestar method requires multiplying 501.9 hours by \$212.50/hour, resulting in \$106,653.75 in attorneys’ fees.

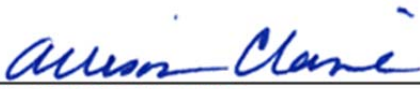
Plaintiffs’ requested award also fairly reflects the novelty and difficulty of the questions presented, the skill required in litigating this complex case, and the fact that Plaintiffs’ counsel litigated this matter on a contingency basis and expended significant time and resources doing so.

This court finds that the total request for \$119,796.05 in attorneys’ fees (\$106,653.75) and costs (\$9500.00 expert witness fee, and \$3642.30 expenses) is fair, adequate and reasonable.

Accordingly, IT IS HEREBY ORDERED that Plaintiffs’ Unopposed Motion for Attorneys’ Fees and Costs, ECF No. 86, is GRANTED. Defendants shall remit payment to Plaintiffs’ counsel in the amount of \$119,796.05, not later than 30 days after the filing date of this Order, subject to interest thereafter as provided in 28 U.S.C. § 1961.

SO ORDERED.

DATED: November 9, 2015


ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE