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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

11	LAUREN M. CRUZ, by her next)	CASE NO.: CV 04-1460 ABC (Mcx)
	friend Jean Cruz; VALERIE)	
12	HERRERA, by her next friend)	ORDER RE: ATTORNEY FEES AND COSTS
	Carolina Herrera; JENNIFER N.)	
13	CERROS; CATHERINE GREMPEL, by)	
	her next friend Tina Gempel,)	
14	individually and on behalf of)	
	all those similarly situated,)	
15)	
	Plaintiffs,)	
16)	
	v.)	
17)	
	ALHAMBRA SCHOOL DISTRICT; THE)	
18	CITY OF ALHAMBRA; RUSSELL LEE-)	
	SUNG, VICTOR SANDOVAL, LOU)	
19	TORRES, WILLIAM A VALLEJOS,)	
	JOHN H. NUÑEZ, ROBERT L. GIN,)	
20	RUTH E. CASTRO, and BARBARA A.)	
	MESSINA, in their official)	
21	capacities,)	
)	
22	Defendants.))	
23)	

24 Contrary to the Supreme Court's hope that attorneys' fees motions
25 not become a "second major litigation," this matter presents precisely
26 such a situation. The parties have filed thousands of pages of papers
27 in battling over the appropriate fees to be awarded to Plaintiffs
28 after they successfully concluded this Title IX matter through

1 settlement. The fighting has ranged from the reasonableness of
2 Plaintiffs' overall claimed hours down to the ability to recover \$1.34
3 for a bottle of water purchased during travel to a status conference.

4 In addition to the initial motion for fees, Plaintiffs filed a
5 Rule 59(e) motion for reconsideration and ultimately appealed the
6 Court's determination of fees. The Ninth Circuit then vacated and
7 remanded for recalculation. Pursuant to the Ninth Circuit's mandate,
8 this Court has pending before it Plaintiffs' request for attorneys'
9 fees incurred in litigating this matter prior to the filing of the
10 Rule 59(e) motion. Also pending before this Court is Plaintiffs'
11 motion for attorneys' fees and costs incurred on remand.

12 Upon consideration of the parties' papers and the case file, the
13 Court hereby rules as follows.

14 **I. BACKGROUND**

15 On March 4, 2004, Plaintiffs Lauren M. Cruz, Valerie Herrera,
16 Jennifer N. Cerros, and Catherine Gempel (collectively "Plaintiffs")
17 filed this class action lawsuit against Defendants Alhambra School
18 District (the "District") and the City of Alhambra (the "City")
19 (collectively "Defendants"). Plaintiffs alleged that Defendants
20 engaged in unlawful sex discrimination against female student athletes
21 at Alhambra High School pursuant to Title IX of the Education
22 Amendments of 1972, the United States Constitution, the California
23 Constitution, and California's anti-discrimination laws. The Court
24 certified the class on October 4, 2004.¹

25 Following the order certifying the class, the parties spent
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27 ¹ This matter was previously assigned to Judge Tevrizian, but
28 was reassigned to Chief Judge Collins on remand because Judge
Tevrizian retired while the appeal was pending.

1 approximately a year mediating and negotiating before reaching
2 resolution of all of the pending claims. The settlements provide for
3 wide-ranging changes, giving substantial benefits to many young women
4 student-athletes. The settlements include: the creation of two new
5 softball fields; the dedication of new locker room facilities for
6 female students; providing equal access to weight rooms and other
7 facilities, as well as for desirable practice and game times;
8 equitable funding and fund-raising opportunities; equitable publicity;
9 and enhanced coaching. See, e.g., Center Initial Decl. ¶¶ 80-91. The
10 settlements further provide for a grievance policy, Title IX training,
11 and future monitoring. See, e.g., id. ¶¶ 92-95.

12 **A. DETERMINATION OF INITIAL FEE REQUEST**

13 Plaintiffs filed a motion for attorneys' fees and costs on
14 January 10, 2006 (the "Initial Fee Motion"). That motion requested
15 fees and costs incurred both in litigating the merits of the case and
16 for work done on the Initial Fee Motion and reply brief. In
17 connection with their Initial Fee Motion, Plaintiffs seek \$767,944.69
18 in fees,² plus a 25% enhancement. On February 27, 2006, the Court
19 granted the Initial Fee Motion in part ("Initial Fee Order"). As a
20 threshold matter, the Court ruled that Plaintiffs are prevailing
21 parties entitled to attorneys' fees under 42 U.S.C. § 1988. Initial
22 Fee Order at 5-6. But the Court ruled that the hours claimed were
23 unreasonable given the non-complex nature of the matter, unnecessary
24 duplication of effort, excessive inter- and intra-office conferencing,

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26 ² Plaintiffs have amended the amount requested on numerous
27 occasions. The above amount reflects the amount previously awarded by
28 the Court (the "undisputed amount") and the additional, revised amount
sought on remand in connection with the Initial Fee Motion. See
Kristen Remand Reply Decl. ¶ 17.

1 and billing for clerical and administrative tasks. Id. at 10-16. The
2 Court also ruled that Plaintiffs failed to prove that the rates
3 requested are reasonable because they were improperly based on "hourly
4 charges claimed by large, well known highly regarded law firms" rather
5 than the local legal community as a whole, and were otherwise too high
6 given the "inefficient manner in which this case was conducted." Id.
7 at 16-19. Based on these findings, the Court reduced Plaintiffs'
8 proposed lodestar amount by 50%. Id. at 19. The Court also denied
9 Plaintiffs' request for a lodestar enhancement. Id. at 20.

10 **B. DETERMINATION OF RULE 59(E) MOTION**

11 Plaintiffs then filed a motion to reconsider the Initial Fee
12 Order pursuant to Fed. R. Civ. P. 59(e), arguing that the Court
13 improperly failed to include fees incurred after filing the Initial
14 Fee Motion (*i.e.*, fees related to the reply brief and the final
15 settlement approval hearing). On May 1, 2006, the Court denied the
16 motion ("Rule 59(e) Order"). The Court expressed concern that
17 Plaintiffs failed to adequately indicate that they would be adjusting
18 their fees on reply and failed to provide specific documentation
19 detailing the new fees. Rule 59(e) Order at 5-8. The Court also
20 found that the additional fees reflected "continued inefficiencies and
21 unreasonable duplication of effort." Id. at 8.

22 **C. NINTH CIRCUIT MANDATE**

23 Plaintiffs timely appealed both the Initial Fee Order and the
24 Rule 59(e) Order. The Ninth Circuit vacated the Initial Fee Order and
25 remanded it to this Court for recalculation. Ninth Circuit Memo. at
26 6. The Ninth Circuit held that the Court erred in the Initial Fee
27 Order by failing to use the lodestar method and failing to explain how
28 the purported deficiencies in Plaintiffs' fee application correlated

1 to the percentage of the fee reduction. Id. at 5. The Ninth Circuit
2 instructed that, in conducting the lodestar analysis on remand, the
3 Court should carefully consider (1) the number of years spent
4 litigating the case, (2) the number of drafts of the settlement
5 agreements prepared and reviewed, (3) the considerable skill and
6 expertise of Plaintiffs' counsel, and (4) the excellent results
7 obtained. Id. at 6 n.5.

8 The Ninth Circuit reversed outright the determination in the Rule
9 59(e) Order that Plaintiffs could not recover the fees incurred after
10 filing their Initial Fee Motion. Id. at 7. The Ninth Circuit
11 rejected the contention that insufficient notice was provided in the
12 Initial Fee Motion that additional fees would be sought and also
13 rejected the contention that Plaintiffs had submitted insufficient
14 evidence to support the additional award. Id. at 7-8.

15 **D. ADDITIONAL FEES AND COSTS SOUGHT ON REMAND**

16 In addition to the issues raised by the Ninth Circuit's Mandate,
17 Plaintiffs filed a motion seeking further attorneys' fees and costs
18 associated with pursuing this matter on remand. Plaintiffs also
19 assert that they are entitled to recover post-judgment interest on the
20 fees related to the Initial Fee Motion.

21 **II. DISCUSSION**

22 Before the Court are several issues for determination. First,
23 the Court must determine the amount of fees to be awarded in
24 connection with the Initial Fee Motion. Second, the Court must
25 determine whether Plaintiffs are entitled to recover post-judgment
26 interest on that amount. Lastly, the Court must determine whether
27 Plaintiffs are entitled to fees and costs on remand and, if so, the
28 amount thereof.

1 **A. INITIAL FEE REQUEST**

2 Litigants in the United States generally pay their own attorneys'
3 fees, regardless of the outcome of a case, although Congress may
4 provide otherwise by statute. Camacho v. Bridgeport Fin., Inc., 523
5 F.3d 973, 978 (9th Cir. 2008). Once a party has demonstrated that it
6 is entitled to some award of fees, the Ninth Circuit requires a
7 district court to determine the amount of such an award by first
8 calculating the "lodestar" figure. Id. "The 'lodestar' is calculated
9 by multiplying the number of hours the prevailing party reasonably
10 expended on the litigation by a reasonable hourly rate." Id. (quoting
11 Ferland v. Conrad Credit Corp., 244 F.3d 1145, 1149 n.4 (9th Cir.
12 2001)). The lodestar is presumed to provide reasonable fees, but "the
13 district court may, if circumstances warrant, adjust the lodestar
14 amount to account for other factors which are not subsumed within it."
15 Camacho, 523 F.3d at 978 (quoting Ferland, 244 F.3d at 1149 n.4).

16 **1. PLAINTIFFS' CLAIMED LODESTAR AMOUNT**

17 Plaintiffs claim a lodestar of \$767,944.69 for fees sought in
18 connection with the Initial Fee Motion:

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Biller	Hours Claimed in Initial Motion	Hours Claimed in Initial Reply	Hours After Filing Initial Reply ³	Total Hours	Rate	Total Amount
William McNeil	4.45	0	0	4.45	\$490	\$2,180.5
Patricia Shiu	326.86	62.12	7.0	395.98	\$470	\$186,110.6
Vicky Barker	216.1	36.3	0	252.4	\$410	\$103,484
Claudia Center	484.95	9.78	0	494.73	\$400	\$197,892
Nancy Solomon	308.2	0	0	308.2	\$325	\$100,165
Elizabeth Kristen	285.87	69.0	10.6	365.47	\$275	\$100,504.25
Cacilia Kim	0	14.7	0	14.7	\$275	\$4,042.5
Sharon Terman	0	57.67	0	57.67	\$225	\$12,975.75
Anya Lakner	0	9.7	0	9.7	\$200	\$1,940
LAS-ELC Paralegals	262.71	0.6906 ⁴	0	263.4006	\$150	\$39,510.09
CWLC Paralegals	11.0	0	0	11.0	\$100	\$1,100
LAS-ELC Law Clerks	90.5	0	0	90.5	\$100	\$9,050
CWLC Law Clerks	89.9	0	0	89.9	\$100	\$8,990

See Shiu Initial Reply Decl. Exs. A, I; Kristen Remand Reply Decl. Ex.

³ Plaintiffs initially included anticipated hours for work to be done the day of filing the Initial Reply and thereafter. See Shiu Initial Reply Decl. Ex. I. On remand, Plaintiffs replaced those anticipated hours with the actual hours worked. Kristen Remand Reply Decl. Ex. H.

⁴ Plaintiffs claimed 9.69 hours in paralegal work in the Initial Reply but calculated a lodestar for that work of only \$103.59. See Shiu Initial Reply Decl. Ex. I. The Court reduces the number of hours claimed accordingly.

1 H. Defendants object to Plaintiffs' claimed lodestar, asserting that
2 the number of hours billed and the hourly rates are not reasonable.

3 In calculating the lodestar, the Court takes into account the
4 factors outlined in the Ninth Circuit Mandate: (1) the number of years
5 Plaintiffs litigated the case; (2) the number of drafts of the
6 settlement agreements; (3) the skill and expertise of Plaintiffs'
7 counsel; and (4) the excellent results obtained. Ninth Circuit Memo.
8 at 6 n.5. These four factors militate in favor of the reasonableness
9 of Plaintiffs' claimed lodestar.

10 **a. The Number of Years Spent Litigating**

11 Plaintiffs began investigating this matter in January 2003 and
12 filed their complaint in March 2004. See, e.g., Barker Initial Decl. ¶
13 16. The case was litigated until final approval of the settlements in
14 January 2006. Thus, Plaintiffs litigated this matter for roughly three
15 years.

16 **b. The Number of Draft Settlement Agreements**

17 Drafting and finalizing the settlement agreement with the District
18 was a significant undertaking. Plaintiffs drafted the initial
19 settlement agreement. See Center Initial Decl. ¶ 45. They met with
20 the District at least six times by phone, with those conferences
21 sometimes lasting two or more hours. Id. at ¶ 46. During the course
22 of the negotiations, Plaintiffs and the District exchanged roughly 30
23 drafts of the agreement, each of which was more than 50 pages long.
24 Id. at ¶ 48.

25 The City did not participate in these settlement negotiations, but
26 instead separately negotiated a draft settlement agreement with
27 Plaintiffs. Id. at ¶¶ 49, 61.

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1 **c. The Skill and Expertise of Plaintiffs' Counsel**

2 It is clear that Plaintiffs' counsel has considerable skill and
3 expertise. Plaintiffs' attorneys are affiliated with two non-profit
4 organizations: the Legal Aid Society - Employment Law Center ("LAS-
5 ELC") and the California Women's Law Center ("CWLC"). LAS-ELC is
6 nationally-recognized for its expertise in challenging discriminatory
7 or otherwise impermissible employment and educational access practices.
8 See, e.g., Shiu Initial Decl. ¶ 4. Similarly, CWLC has extensive
9 expertise in sex discrimination and Title IX, in particular. See,
10 e.g., Barker Initial Decl. ¶ 5. And the individual attorneys
11 demonstrated significant skill and expertise in handling the
12 litigation.

13 **d. The Excellent Results Obtained**

14 "Where a plaintiff has obtained excellent results, his attorney
15 should recover a fully compensatory fee." Hensley v. Eckerhart, 461
16 U.S. 424, 435 (1983). This will normally encompass all hours
17 reasonably expended on the litigation. Id. In cases of "exceptional
18 success," an enhancement above the lodestar may be warranted. Id.
19 Here, the results obtained were "undeniably excellent." Ninth Circuit
20 Memo. at 6 n.5. Indeed, Plaintiffs successfully utilized Title IX to
21 obtain far-reaching changes that significantly benefit many young
22 women.

23 **2. REASONABLENESS OF HOURS CLAIMED BY PLAINTIFFS**

24 Mindful of the four factors analyzed above, the Court now turns to
25 calculating the lodestar. In order to calculate the lodestar, the
26 Court must determine the number of hours "reasonably expended on the
27 litigation." Hensley, 461 U.S. at 433-34. Hence, the Court must
28 eliminate from the lodestar time that was unreasonably, unnecessarily,

1 or inefficiently devoted to the case. Id. at 434. Plaintiffs here are
2 claiming 2,358.1 hours spent on this litigation. Defendants contend
3 that Plaintiffs' claimed hours should be reduced significantly, for the
4 reasons discussed below. See, e.g., District's Initial Opp'n at 13.⁵

5 **a. Duplication of Effort and Excessive Billing**

6 Billed time that includes unnecessary duplication of effort should
7 be excluded from the lodestar. See Herrington v. County of Sonoma, 883
8 F.2d 739, 747 (9th Cir. 1989). "[C]ourts ought to examine with
9 skepticism claims that several lawyers were needed to perform a task,
10 and should deny compensation for such needless duplication as when
11 three lawyers appear for a hearing when one would do." Democratic
12 Party of Wash. State v. Reed, 388 F.3d 1281, 1286 (9th Cir. 2004)
13 (internal citations omitted). Of course, there is some degree of
14 duplication that is necessary in any case. Moreno v. City of
15 Sacramento, 534 F.3d 1106, 1112 (9th Cir. 2008). Defendants identified
16 nearly 600 hours that they claim involve unnecessarily duplicative
17 billing by Plaintiffs' counsel. District Initial Opp'n at 20-21.

18 The Court's review of the record indicates that some of the hours
19 claimed did result from unnecessary duplication. For example, Shiu,
20 Barker, Center and Kristen each billed to inspect the relevant athletic
21 facilities. See Gibeaut Initial Decl. Ex. J. Plaintiffs explained
22 that Kristen filmed the inspection, while Shiu, Center, and Barker took
23 notes and measurements. Shiu Initial Reply Decl. ¶¶ 6, 7. Among other
24 things, they also counted lockers and checked the cleanliness and
25 functioning of the bathrooms. Id. at ¶ 7. Although an understanding

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27 ⁵ The arguments by the District and City do not always overlap
28 exactly, but they are significantly similar. Thus, the Court will
generally refer to them as "Defendants" without differentiation.

1 of the disparities in the facilities is important, that does not
2 justify having four attorneys (three of whom request fees of \$400 or
3 more per hour) personally conduct the actual inspection.

4 Plaintiffs also billed to have Shiu, Center, Barker and Solomon
5 appear at the January 31, 2005 mediation. See Gibeaut Initial Decl.
6 Ex. J; Shiu Initial Reply Decl. ¶ 6, Ex. C. Participation of more than
7 one attorney at a mediation does not automatically constitute an
8 unnecessary duplication of effort. See Kim v. Fujikawa, 871 F.2d 1427,
9 1435 n.9 (9th Cir. 1989). But Plaintiffs do not provide an adequate
10 explanation as to why it was necessary to have four attorneys (with
11 requested rates of \$470, \$410, \$400 and \$325 per hour) attend the
12 mediation. Plaintiffs assert generally that they only billed for the
13 time of attorneys that participated in, "or might be needed" at, a
14 hearing or conference, and that multiple attorneys attended hearings or
15 conferences because "several attorneys had specific knowledge about
16 discrete sub issues." Initial Reply to District's Opp'n at 19. It is
17 clear that Plaintiffs' counsel decided to take a "team" approach to
18 handling this matter. Nonetheless, that explanation is insufficient to
19 show that it was necessary to have four attorneys attend the mediation.
20 See, e.g., Anderson v. Rochester-Genesee Regional Transp. Auth., 388 F.
21 Supp. 2d 159, 164-65 (W.D.N.Y. 2005).

22 Similarly, Shiu, Center, Barker, Solomon, and Kristen spent a
23 total of 194 hours in connection with Plaintiffs' class certification
24 motion. Shiu Initial Reply Decl. ¶¶ 14, 51.⁶ While having five
25 attorneys work on class certification may not be unnecessarily
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27 ⁶ The 194 hours include work done on the initial motion, reply
28 brief, declarations, preparing for and attending the hearing, and
conferring with Plaintiffs. Shiu Initial Reply Decl. ¶ 14.

1 duplicative in all instances, it was here. At an earlier status
2 conference, the Court indicated that it would certify a class in this
3 case. See, e.g., Shiu Initial Decl. ¶ 70. Moreover, Plaintiffs
4 acknowledge that Defendants had “no particular legal argument for why
5 certification was not appropriate.” Id. at ¶ 71. Indeed, the Court’s
6 order granting class certification makes clear that Defendants did not
7 dispute much of Plaintiffs’ motion. See Order Granting Plaintiffs’
8 Motion for Class Certification for Injunctive Relief (Oct. 6, 2004).
9 Plaintiffs did not need to have five attorneys spend nearly 200 hours
10 preparing straightforward class certification briefing.

11 Nor does the Court’s review of the record reveal that these were
12 isolated occurrences. Accordingly, the Court finds it necessary to
13 calculate the lodestar based on a modest reduction to the hours claimed
14 by Plaintiffs, as discussed below.

15 **b. Excessive Conferencing**

16 Time billed for internal conferencing is recoverable to the extent
17 it is reasonably necessary to conducting the litigation. See Davis v.
18 City & County of San Francisco, 976 F.2d 1536, 1545 (9th Cir. 1992).
19 Defendants identified roughly 264 hours of inter- and intra-office
20 communications within and between LAS-ELC and CWLC, representing
21 roughly 13% of the total hours claimed in the Initial Fee Motion. See
22 District’s Initial Opp’n at 18.⁷ This is the equivalent of spending
23 approximately one hour conferencing for every eight hours billed.
24 Unfortunately, neither Plaintiffs nor Defendants provides significant
25 detail as to whether the time spent on these communications is

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27 ⁷ Plaintiffs subsequently amended that requested fee amount in
28 their reply brief to include additional hours worked after the Initial
Fee Motion was filed. The above figure does not include conferencing
time added through amendment.

1 reasonable. Plaintiffs assert in blanket terms that the hours were
2 reasonable in light of the "issues and challenges that plaintiffs faced
3 in investigating, filing, litigating and resolving this matter." See,
4 e.g., Shiu Initial Reply Decl. ¶ 40. Plaintiffs also assert that much
5 of the conferencing was necessitated by the settlement negotiations.
6 See id. ¶ 42. Unfortunately, Defendants do not provide specificity in
7 challenging these hours. Rather, they appear to rely solely on
8 generalized assertions that the total fees for conferencing appears to
9 be too high. See, e.g., District's Initial Opp'n at 18.

10 Based on the Court's review of the billing records and Plaintiffs'
11 explanations for the hours billed conferencing, the Court finds that
12 the hours claimed are on the higher end of what it would expect as
13 reasonably necessary for litigating this matter. The Court finds that
14 a modest reduction to Plaintiffs' claimed hours will compensate for any
15 excessive conferencing.

16 **c. Non-Billable Clerical Work**

17 Parties cannot recover fees for conducting clerical matters. See
18 Missouri v. Jenkins, 491 U.S. 274, 288 n.10 (1989); Davis, 976 F.2d at
19 1543. Defendants contend that Plaintiffs' claimed hours should be
20 reduced because they billed for clerical work, pointing to entries in
21 which Plaintiffs billed for inter alia printing labels and copying
22 documents. While it is clear that some clerical work was improperly
23 billed by Plaintiffs, the Court's review of the record indicates that
24 these hours are relatively few in number in relation to the total fee
25 award. Accordingly, the Court finds that improperly billed clerical
26 work can be properly accounted for through a modest reduction to
27 Plaintiffs' claimed hours.

28 //

1 **d. Total Reasonable Hours**

2 Accordingly, the Court finds that Plaintiffs' claimed hours are at
 3 least somewhat excessive. Especially in light of the factors
 4 identified in the Mandate, however, the Court does not believe that the
 5 reasonable number of hours is nearly as low as suggested by Defendants.
 6 Instead, balancing these factors with the above instances of
 7 excessiveness, the Court determines in its discretion that a small
 8 reduction is warranted. The Court finds that a 5% reduction is
 9 appropriate here.⁸ Thus, the lodestar will be calculated at 95% of the
 10 hours claimed by Plaintiffs.

11 **3. REASONABLENESS OF RATES CLAIMED BY PLAINTIFFS**

12 Defendants also argue that the rates claimed by Plaintiffs are
 13 unreasonable. The hourly rates used to calculate the lodestar must be
 14 "in line with those prevailing in the community for similar services by
 15 lawyers of reasonably comparable skill, experience and reputation."
 16 Blum v. Stenson, 465 U.S. 886, 895 n.11 (1984). "Affidavits of the
 17 plaintiffs' attorney and other attorneys regarding prevailing fees in
 18 the community, and rate determinations in other cases, particularly
 19 those setting a rate for the plaintiffs' attorney, are satisfactory
 20 evidence of the prevailing market rate." United Steelworkers of Am. v.
 21 Phelps Dodge Corp., 896 F.2d 403, 407 (9th Cir. 1990) (citing Chalmers
 22 v. City of Los Angeles, 796 F.2d 1205, 1214 (9th Cir. 1986)). In
 23 analyzing the prevailing market rate, the Court is also mindful that
 24 these attorneys have considerable skill and expertise, and of the
 25 excellent results obtained. See Ninth Circuit Memo. at 6 n.5.

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 27 ⁸ The Court finds this amount sufficient to cure any over-
 28 e.g., Shiu Initial Reply Decl. ¶¶ 24-27.

1 **a. Attorneys' Rates**

2 Plaintiffs request the following rates for attorneys:

3 William McNeil	35 years experience	\$490
4 Patricia Shiu	23 years experience	\$470
5 Vicky Barker	21 years experience	\$410
6 Claudia Center	13 years experience	\$400
7 Nancy Solomon	9 years experience	\$325
8 Elizabeth Kristen	5 years experience	\$275
9 Cacilia Kim	3 years experience	\$275
10 Sharon Terman	2 years experience	\$225
11 Anya Lakner	1 year experience	\$200

12 See, e.g., Shiu Initial Reply Decl. Exs. A, I. In support of their
 13 request, Plaintiffs submitted testimony of private attorneys who handle
 14 federal litigation; data on then-current rates charged by Los Angeles
 15 area law firms; and rates determined to be reasonable by other courts.

16 As to the appropriateness of the rates sought the LAS-ELC
 17 attorneys, Plaintiffs submitted a declaration from a former LAS-ELC
 18 board member and current partner at the law firm of Pillsbury Winthrop
 19 Shaw Pittman LLP. See Odgers Initial Decl. ¶¶ 2-3. He explained that
 20 the LAS-ELC board sets hourly rates by collecting billing rate
 21 information from the board members and their firms, as well as from
 22 other attorneys working for San Francisco law firms. Id. at ¶¶ 5-6.
 23 He further declared that the rates sought for Shiu, Center and Kristen
 24 in particular are in-line with those charged by attorneys of comparable
 25 experience at his firm, and other San Francisco and Los Angeles law
 26 firms. Id. at ¶¶ 7-9. Plaintiffs made a similar showing for the rates
 27 requested for Barker and Solomon by way of declarations from two
 28 current CWLC board members and current partners at Los Angeles area law

1 firms. See Berkowitz Initial Decl.; Jordan Initial Decl. Plaintiffs
2 also submitted survey evidence of Los Angeles law firm rates in line
3 with those requested here. See Shiu Initial Decl. ¶ 56 & Ex. H.

4 The requested rates are also in line with those awarded to
5 McNeill, Shiu, Center and Kristen in Lopez v. San Francisco Unified
6 School Dist., 385 F. Supp. 2d 981 (N.D. Cal. 2005). In Lopez,
7 Plaintiffs brought suit for alleged violations under the Americans with
8 Disabilities Act and parallel state laws. Following settlement,
9 Plaintiffs sought fees for McNeill, Shiu, Center and Kristen based on
10 rates of \$490, \$460, \$395, and \$250, respectively. Id. at 987. The
11 court found all of those rates to be reasonable. Id. at 991-92. The
12 Court finds Lopez constitutes significant support for these attorneys'
13 requested rates. See United Steelworkers, 896 F.2d at 407.

14 None of the parties devoted substantial attention to the specific
15 rates of Kim, Terman and Lakner. The Court has reviewed those
16 attorneys' qualifications and their claimed rates appear reasonable
17 based on case law from this district. See, e.g., Comite de Jornaleros
18 de Redondo Beach v. City of Redondo Beach, No. CV 04-9396 CBM (JTLx),
19 2006 WL 4081215, at *2-4 (C.D. Cal. Dec. 12, 2006).

20 Defendants raise a variety of arguments to counter Plaintiffs'
21 showing, none of which are persuasive.⁹ For example, Defendants
22 contend that it is inappropriate to determine rates for Plaintiffs'

23
24 ⁹ Defendants rely heavily on an opinion holding that the
25 lodestar should be calculated using the "hourly rate that would be
26 charged by reasonably competent counsel." See Albion Pacific Property
27 Resources, LLC v. Seligman, 329 F. Supp. 2d 1163, 1170 (N.D. Cal.
28 2004) (reducing requested rates in determining fees for improper
removal pursuant to 28 U.S.C. § 1447(c)). That standard does not take
into account the skill and expertise of these particular attorneys.
As such, the Court declines to follow Albion. See Fleming v. Kemper
Nat'l Servs., Inc., 373 F. Supp. 2d 1000, 1011 (N.D. Cal. 2005).

1 attorneys using data from large law firms because such firms generally
2 do work in areas of federal litigation that garner higher rates than
3 those charged for civil rights litigation. See, e.g., City's Opp'n to
4 Initial Fee Motion at 17.¹⁰ But Defendants did not come forward with
5 persuasive evidence that Title IX litigation is not comparable with the
6 types of litigation undertaken by large law firms. Plaintiffs'
7 declarants stated that the rates claimed are similar to those charged
8 by attorneys of similar skill and experience "for comparable work."
9 See, e.g., Odgers Initial Decl. ¶ 6; Jordan Decl. Initial ¶ 6. While
10 Defendants dispute that this case was "complex," other courts have
11 found that "Title IX is a complex area of the law and contains
12 relatively few reported decisions to guide practitioners." Communities
13 for Equity v. Michigan High School Athletic Ass'n, No. 1:98-cv-479,
14 2008 WL 906031, at *15 (W.D. Mich. March 31, 2008) (citing Cohen v.
15 Brown Univ., 101 F.3d 155, 169 (1st Cir. 1996)). That the type of work
16 done in this case is comparable to the federal litigation conducted by
17 major law firms is borne out by the fact that other courts have relied
18 on data from large firms in determining rates for Title IX litigation.
19 See Hess v. Ramona Unified School Dist., No. 07-cv-0049 W(CAB), 2008 WL
20 5381243, at *3 (S.D. Cal. Dec. 19, 2008) (setting rates for successful
21 Title IX plaintiffs based on declaration from Latham & Watkins
22 partner).¹¹

24 ¹⁰ It bears noting that Plaintiffs are requesting rates at or
25 below those charged by these firms. See, e.g., Berkowitz Initial
26 Decl. ¶ 8 ("If [Vicky Barker] worked at my firm, her time would be
billed at, and our clients would be asked to pay, a minimum of \$410 an
hour and more likely \$560 per hour.")

27 ¹¹ Defendants' contention that the rates for Plaintiffs'
28 attorneys should be in accord with rates charged by the attorneys

(continued...)

1 Defendants also contend that it is inappropriate for Plaintiffs to
2 be awarded all fees based on the rates prevailing at the time of the
3 fee motion, rather than at the time the work was completed. Defendants
4 fail to take into account that "compensation received several years
5 after the services were rendered . . . is not equivalent to the same
6 dollar amount received reasonably promptly as the legal services are
7 performed." Jenkins, 491 U.S. at 283. The Court finds it appropriate
8 to award the prevailing market rate at the time of the Initial Fee
9 Motion to compensate Plaintiffs for the delay in receiving fees. See,
10 e.g., id. at 283-84.

11 Based on all of the evidence regarding the prevailing rate in the
12 community for counsel of similar experience for similar services, the
13 Court finds that the requested rates for all of Plaintiffs' attorneys
14 are reasonable and will calculate the lodestar at their requested
15 rates.

16 **b. Law Clerks' and Paralegals' Rates**

17 Plaintiffs also seek to recover fees for law clerk and paralegal
18 work. LAS-ELC seeks to recover at rates of \$100 for law clerks and
19 \$150 for senior paralegals. CWLC seeks to recover at rates of \$100 for
20 law clerks and \$100 for paralegals. The parties provide very little
21 evidence as to the reasonableness of these rates. While the Court
22 finds that the rates for the law clerks and CWLC's paralegals are in-
23 line with the prevailing market rate, the requested rate of \$150 per
24 hour for LAS-ELC's senior paralegals is not. See Comite de Jornaleros,
25 2006 WL 4081215, at *3-4; see also Lopez, 385 F. Supp. 2d at 992.

26
27 ¹¹(...continued)
28 working for the government is inconsistent with Ninth Circuit law.
See Trevino v. Gates, 99 F.3d 911, 925 (9th Cir. 1996).

1 Instead, the Court finds that a rate of \$125 to be in-line with the
 2 prevailing market rate and will adjust the rate accordingly in
 3 calculating the lodestar.

4 **4. LODESTAR AMOUNT FOR INITIAL FEE REQUEST**

5 The Court determines that the lodestar amount for the Initial Fee
 6 Motion is **\$723,296.10**. This amount is calculated based on the
 7 reasonable hours spent litigating this matter, which is 95% of the
 8 hours claimed. The hours are multiplied by the claimed hourly rates,
 9 which the Court finds to be reasonable except for LAS-ELC's senior
 10 paralegals. Thus, the lodestar amount is as follows:

11	Biller	Total Hours	Rate	Total Amount
12	William McNeil	4.23	\$490	\$2,072.70
13	Patricia Shiu	376.18	\$470	\$176,804.60
14	Vicky Barker	239.78	\$410	\$98,309.80
15	Claudia Center	469.99	\$400	\$187,996
16	Nancy Solomon	292.79	\$325	\$95,156.75
17	Elizabeth Kristen	347.20	\$275	\$95,480
18	Cacilia Kim	13.97	\$275	\$3,841.75
19	Sharon Terman	54.79	\$225	\$12,327.75
20	Anya Lakner	9.22	\$200	\$1,844
21	LAS-ELC Paralegals	250.23	\$125	\$31,278.75
22	CWLC Paralegals	10.45	\$100	\$1,045
23	LAS-ELC Law Clerks	85.98	\$100	\$8,598
	CWLC Law Clerks	85.41	\$100	\$8,541

24 **5. PLAINTIFFS' REQUESTED LODESTAR ENHANCEMENT**

25 The calculation of the lodestar does not end the Court's inquiry.
 26 Instead, the lodestar may be adjusted in light of additional
 27 considerations, including the important factor of the results obtained.
 28 Hensley, 461 U.S. at 434. Nonetheless, a "strong presumption" exists

1 that the lodestar figure represents a "reasonable fee" and should be
2 enhanced only in "rare and exceptional cases." Pennsylvania v.
3 Delaware Valley Citizens' Council for Clean Air, 478 U.S. 546, 565
4 (1986). To overcome the strong presumption that the basic fee is
5 reasonable, the fee applicant bears the burden of coming forward with
6 "specific evidence" that the lodestar amount is unreasonably low. See
7 Van Gerwen v. Guarantee Mut. Life Co., 214 F.3d 1041, 1045 (9th Cir.
8 2000) (citing Delaware Valley, 478 U.S. at 565). This showing must be
9 based on factors not already subsumed in the lodestar calculation. Id.

10 Plaintiffs assert that the Court should award a 25% enhancement
11 because the results achieved were excellent. See, e.g., Kristen Remand
12 Reply Decl. Exs. B at 60, C at 27-28.¹² Exceptional results generally
13 do not provide a basis for enhancing the lodestar because the results
14 obtained are generally subsumed within the initial lodestar
15 calculation. Blum, 465 U.S. at 900; see also Ninth Circuit Memo. at 6
16 n.5 (excellence of results should be included in lodestar calculation).
17 Moreover, not only must the results be excellent to warrant a lodestar
18 enhancement, but an upward adjustment is justified "only in the rare
19 case where the fee applicant offers specific evidence to show that the
20 quality of service rendered was superior to that one reasonably should
21 expect in light of the hourly rates charged." Blum, 465 U.S. at 899;

22 _____
23 ¹² Plaintiffs made a variety of other arguments in the Initial
24 Fee Motion for enhancement, often devoting only one sentence to each.
25 See Initial Fee Motion at 23-24. On appeal, Plaintiffs argued only
26 that an enhancement is warranted by the results obtained. See, e.g.,
27 Kristen Remand Reply Decl. Exs. B at 60, C at 27-28. Thus, those
28 arguments have been waived to the extent they were not purposefully
abandoned. See, e.g., United States v. Nagra, 147 F.3d 875, 882 (9th
Cir. 1998); see also Remand Reply at 1 n.1 (asserting that Plaintiffs
rely on their appellate briefing as to the recalculation of fees in
the Initial Fee Order). In any event, the Court has reviewed the
other arguments and finds that they do not warrant an enhancement.

1 see also Lopez, 358 F. Supp. 2d at 998-99.

2 Plaintiffs attempt to meet their burden by offering declarations
3 from their counsel describing the results of the settlement as better
4 than settlements obtained in other cases. See, e.g., Shiu Initial
5 Decl. ¶ 26; Barker Initial Decl. ¶ 38. While the results of the
6 settlement are excellent, blanket assertions that the results here are
7 better than results in other cases is not "specific evidence" showing
8 that the results achieved in this case would not have been achieved by
9 other similarly paid attorneys. Indeed, case law cited in other
10 sections of Plaintiffs' briefing suggests that the results here are not
11 so extraordinary. See Communities for Equity, 2008 WL 906031, at *2, 5
12 n.8 (awarding no lodestar modification in Title IX case involving
13 significant statewide changes to high school athletics).

14 Plaintiffs also submitted several declarations articulating the
15 important benefits of sports to young women and the broader athletic
16 opportunities they will have as a result of the settlements. See,
17 e.g., Center Initial Decl. ¶¶ 80-96; Barker Initial Decl. ¶¶ 39-44. The
18 Court has no reason to disagree that the settlement will provide great
19 benefits to many young women; however, that does not make the case
20 "exceptional." See Blum, 465 U.S. at 900 n.16; Lopez, 385 F. Supp. 2d
21 at 998.

22 Accordingly, the Court denies the request for a 25% enhancement.

23 **B. PLAINTIFFS' REQUEST FOR POST-JUDGMENT INTEREST**

24 Plaintiffs also seek to collect post-judgment interest on the fees
25 awarded in connection with the Initial Fee Motion. They seek interest
26 on two sets of fee amounts: (1) the fees and costs awarded in the
27 Initial Fee Order (the "Undisputed Amount" of \$335,831.63 in fees and
28 \$19,968.06 in costs) and (2) the fees awarded by the Court on remand

1 above the undisputed amount of fees (the "Additional Amount" of
2 \$387,464.47). The Court finds that post-judgment interest is available
3 on both amounts.

4 **1. INTEREST ON THE "ADDITIONAL AMOUNT"**

5 Plaintiffs assert that they are entitled to post-judgment interest
6 accruing from the date of the Initial Fee Order for the Additional
7 Amount of fees awarded in this order. Thus, they seek to recover
8 interest accruing from February 28, 2006 to the date of this Order on
9 the \$387,464.47 awarded above. A party may recover interest on
10 attorneys' fees awarded under 42 U.S.C. § 1988. Spain v. Mountanos,
11 690 F.2d 742, 748 (9th Cir. 1982) (discussing 28 U.S.C. § 1961).
12 "Interest runs from the date that entitlement to fees is secured,
13 rather than from the date that the exact quantity of the fees is set."
14 Friend v. Kolodziejczak, 72 F.3d 1386, 1391-92 (9th Cir. 1995). This
15 Court held that Plaintiffs are entitled to recover fees in the Initial
16 Fee Order, entered on February 28, 2006. Thus, post-judgment interest
17 would ordinarily accrue from that date.

18 Nonetheless, Defendants assert that post-judgment interest cannot
19 be awarded at all here because the Ninth Circuit mandate did not
20 include specific instructions to allow it. For this proposition,
21 Defendants rely on Planned Parenthood of the Columbia/Willamette Inc.
22 v. American Coalition of Life Activists, 518 F.3d 1013, 1022 (9th Cir.
23 2008) (discussing Fed. R. App. P. 37). Defendants' argument is
24 unavailing, as made clear by Planned Parenthood itself:

25 Rule 37(b) governs *only* when our mandate "modifies or
26 reverses a judgment with a direction that a money judgment be
27 entered in the district court." When the court of appeals
28 remands to the district court to determine the amount of a

1 damages award, then the mandate does not direct the entry of
2 a money judgment. The Briggs [v. Pennsylvania R.R. Co., 334
3 U.S. 304 (1948)] and Rule 37(b) limitations on district court
4 authority are therefore not implicated . . .
5 518 F.3d at 1018-19 (emphasis in original). The Ninth Circuit mandate
6 in this case vacated the Initial Fee Order with instructions to
7 recalculate the fees. See Ninth Circuit Memo. at 6. Thus, the award
8 of post-judgment interest is not barred.

9 Post-judgment interest began accruing on February 28, 2006 for the
10 \$387,464.47 awarded by this Court today. Defendants do not dispute
11 that the appropriate interest rate is 4.72%. See Kristen Remand Reply
12 Decl. ¶ 17. It has now been 1099 days since the issuance of the
13 Initial Fee Order. Accordingly, Plaintiffs are entitled to \$55,059.90
14 in interest for the Additional Amount, plus \$50.10 for each day until
15 Defendants make payment.

16 2. INTEREST ON THE "UNDISPUTED AMOUNT"

17 As noted above, the Initial Fee Order awarded Plaintiffs
18 attorneys' fees of \$335,831.63 and costs of \$19,968.06. Initial Fee
19 Order at 22. The City paid 20% of the underlying amount due pursuant
20 to the Initial Fee Order (or \$71,159.94) on August 10, 2006. See,
21 e.g., Kristen Remand Decl. ¶ 22. The District paid the remaining 80%
22 of the underlying amount due (or \$284,639.75) on January 25, 2007.
23 See, e.g., id. at ¶ 33. Plaintiffs assert that they are entitled to
24 recover interest on the Undisputed Amounts accruing from February 28,
25 2006 to the date of payment by each of the Defendants. The amount of
26 interest requested is \$13,674.25. Id. at ¶ 39.

27 Given that Defendants did not appeal Plaintiffs' entitlement to
28 fees, there is no reason why payment of the Undisputed Amount should

1 have been delayed. See Fradhl v. City & County of San Francisco, 804
2 F.2d 1097, 1099 (9th Cir. 1986). As noted above, an award of fees
3 begins accruing interest on the date of the initial order establishing
4 an entitlement to them. Friend, 72 F.3d at 1391-92. Thus, post-
5 judgment interest began accruing on February 28, 2006.

6 Defendants again contest the availability of post-judgment
7 interest, however. The City argues that it should not be required to
8 pay interest on the Undisputed Amount because it expressed to
9 Plaintiffs a "willingness to immediately pay its portion of the award"
10 shortly after the Initial Fee Order and, at any rate, that it paid
11 Plaintiffs in a "reasonable" amount of time. The District argues that
12 any delay in its payment to Plaintiffs for the Undisputed Amount was
13 caused by the fact that the funds had to be issued by the Los Angeles
14 County Office of Education. Neither Defendant cites to any authority
15 in support of their positions and their arguments are not convincing.

16 First, the City's claim that it offered to pay immediately is
17 disingenuous given that its offer was contingent on Plaintiffs not
18 appealing the Initial Fee Order. See Kristen Remand Reply Decl. Ex. A
19 ("We hope that you will agree that accepting the Defendants' offer to
20 pay the full award now, rather than appealing the District Court's
21 order, is in the best interest of the current and future students at
22 Alhambra High School." (emphasis added)). In any event, were the City
23 truly ready to make payment at that time and Plaintiffs were
24 unreceptive, the City should have deposited the money with the court
25 pursuant to Fed. R. Civ. P. 67(a) to halt the accrual of interest. See
26 Perkins v. Standard Oil Co. of Cal., 487 F.2d 672, 675 n.7 (9th Cir.
27 1973); Cordero v. De Jesus-Mendez, 922 F.2d 11, 18-19 (1st Cir. 1990).

28 Second, the Court need not consider whether the delays in this

1 case were reasonable and/or caused by third-parties because Defendants
2 should bear the cost of delay regardless. The award of post-judgment
3 interest in civil rights cases is allowed to ensure that the policy
4 underlying the award of attorneys' fees (i.e., encouraging counsel to
5 bring private civil rights actions) is not undermined by delay in
6 payment. See Spain, 690 F.2d at 748. With that policy in mind, the
7 cost incurred by delay in payment should be borne by the defendants
8 whose initial wrongful conduct invoked the judicial process. See,
9 e.g., Perkins, 487 F.2d at 676.¹³

10 Accordingly, Plaintiffs are entitled to post-judgment interest of
11 \$13,674.25 on the Undisputed Amount awarded in the Initial Fees Order.

12 **C. PLAINTIFFS' REMAND FEE MOTION**

13 In addition to fees from the Initial Fee Motion, Plaintiffs also
14 seek to recover fees and costs for work done after the Initial Fee
15 Motion but not covered in their separate fee request to the Ninth
16 Circuit ("Remand Fee Motion"). This request focuses primarily on fees
17 associated with motion work on remand and efforts to collect the
18 Undisputed Amount from Defendants pending appeal. Plaintiffs' Remand
19 Fee Motion seeks \$14,112.50 in fees and \$569.40 in costs. See Kristen
20 Remand Reply Decl. ¶ 16.

21 There is no dispute that a prevailing plaintiff may recover fees
22 for work done in litigating attorneys' fees. See, e.g., Thompson v.
23 Gomez, 45 F.3d 1365, 1366 (9th Cir. 1995). So the only dispute on the
24 Remand Fee Motion is the proper amount to award. Plaintiffs claim the
25 following lodestar amount:

26
27 ¹³ The Court rejects the contention that Plaintiffs cannot
28 recover post-judgment interest on the Undisputed Amount because the
Initial Fee Order did not specifically provide for it. See, e.g.,
Tinsley v. Sea-Land Corp., 979 F.2d 1382, 1384 (9th Cir. 1992).

Attorney	Experience	Rate	Hours	Lodestar
Patricia Shiu	26 years	\$530	1.55	\$821.50
Elizabeth Kristen	7 years	\$340	35.5	\$12,070
Sharon Terman	4 years	\$275	4.44	\$1,221

Total: \$14,112.50.

See Remand Fee Reply at 8. For the reasons set forth below, the Court finds that Plaintiffs are entitled to the amount requested.

1. REASONABLENESS OF HOURS CLAIMED BY PLAINTIFFS.

As they did with the hours claimed for in the Initial Fee Motion, Defendants contend that the hours billed are excessive and unreasonable. While the Court found some deduction necessary for the hours in the Initial Fee Motion, the hours claimed in the Remand Fee Motion are reasonable.

Defendants assert that roughly seven hours for which Plaintiffs request fees in the Remand Fee Motion were "cut" from the Ninth Circuit fee request and, as a result, that Plaintiffs should not be able to recover for that time here. See District's Remand Opp'n at 5. The papers presented to the Ninth Circuit indicate that some of the "cuts" were made because the time claimed was "time spent on case-related issues not relating to the appeal." See Kristen Ninth Circuit Fee Decl. ¶ 16 (attached to Mullane Remand Decl. Ex. 2); see also Kristen Ninth Circuit Fee Reply Decl. ¶ 12(e) (attached to Kristen Remand Reply Decl. Ex. D). While it is not clear that Plaintiffs were intending to seek those fees on remand, it does not appear that Plaintiffs were

1 representing that the cut hours would not be claimed on remand.¹⁴ Thus,
2 the disputed time that had been excised from the Ninth Circuit fee
3 claim is recoverable here.

4 Plaintiffs request 7.3 hours for Kristen's travel time from San
5 Francisco to Los Angeles in conjunction with the August 4, 2008 status
6 conference. Defendants claim that those hours are unreasonable because
7 Plaintiffs' local counsel, Barker, attended the status conference.
8 Given Kristen's familiarity with the case and the issues on appeal, see
9 Kristen Remand Reply Decl. ¶ 8, it was proper for her to attend the
10 status conference. And the hours that she billed are especially
11 reasonable given that Barker did not bill her time attending the status
12 conference. Id. Thus, the hours claimed are reasonable.

13 Plaintiffs requested 9.4 hours for Kristen's preparation of the
14 Remand Fees Motion. Defendants contend that such fees are excessive
15 because the motion is "at least partially duplicative" of work
16 previously done by Plaintiffs' counsel. City's Remand Opp'n at 8.
17 This argument is also unavailing. Even if prior briefs were written
18 with significantly overlapping issues, preparing the Remand Fees Motion
19 in less than 10 hours is inherently reasonable. As to Plaintiffs'
20 assertion that research had been conducted on post-judgment interest by
21 a colleague of Kristen's in 2006, the Court finds it entirely proper
22 (and expected) that Kristen would not have relied solely on outdated
23

24 ¹⁴ The Court is not unsympathetic to Defendants' frustration,
25 however. Plaintiffs often submitted voluminous papers that did not
26 highlight important information. Thus, it can be difficult to
27 ascertain precisely what is being claimed. That certainly appears to
28 be the case with the time "cut" in the Ninth Circuit fee request.
Plaintiffs are well off the mark in proclaiming that the papers before
the Ninth Circuit "plainly show" that Plaintiffs would seek to recover
some of the excised time on remand. See Remand Reply at 9.

1 research. See Moreno, 534 F.3d at 1112.

2 Defendants lastly contend that the time spent conferencing is not
3 recoverable, objecting specifically to 1.5 hours of billed time.
4 City's Remand Suppl. Opp'n at 8. But, as the City notes, the time
5 sought for conferencing in the Remand Fees Motion is "minute" compared
6 to the overall fees sought. City's Remand Suppl. Opp'n at 8. The
7 Court does not find the conferencing here to be unnecessary or
8 unreasonable.

9 **2. REASONABLENESS OF RATES CLAIMED BY PLAINTIFFS**

10 Plaintiffs assert that the remand fee lodestar should be
11 calculated using the following rates: (1) \$530 for Shiu; (2) \$340 for
12 Kristen; and (3) \$275 for Terman. In support of these rates,
13 Plaintiffs submitted another declaration from Richard Odgers. See
14 Kristen Remand Decl. Ex. V.¹⁵ The rates requested on remand are
15 slightly higher than the rates that the Court found reasonable above
16 for these attorneys. The Court finds that these rates are reasonable
17 in light of the additional years of experience that each has acquired
18 in the interim and the Odgers Declaration.

19 **3. LODESTAR AMOUNT FOR POST-REMAND FEE REQUEST**

20 Accordingly, Plaintiffs are awarded their requested lodestar
21

22 ¹⁵ Defendants object to these rates, largely reiterating the
23 arguments addressed above. For the reasons discussed above,
24 Defendants' arguments are not persuasive. Defendants also assert on
25 remand that rates should be set according to the matrix in Laffey v.
26 Northwest Airlines, Inc., 572 F. Supp. 354 (D.D.C. 1983). See Mullane
27 Remand Decl. Ex. 4 (attaching Declaration of Gerald Knapton). The
28 Court will not apply the Laffey matrix because inter alia it is
inconsistent with the standards applicable here requiring that the
Court consider the skill and expertise of these particular attorneys
in setting their rate. See, e.g., Perez v. Cozen & O'Connor Group
Long Term Disability Coverage, No. 05cv0440 DMS AJB, 2007 WL 2142292,
at *2 (S.D. Cal. March 27, 2007).

1 amount for their Remand Fee Motion of \$14,112.50.¹⁶

2 **4. COSTS FOR POST-REMAND WORK**

3 Lastly, Plaintiffs seek to recover costs of \$569.40 in their
4 Remand Fee Motion. See Remand Reply at 18. Not surprisingly,
5 Defendants dispute the reasonableness of those costs. The Court finds
6 that Plaintiffs are entitled to the full amount of costs requested.

7 Defendants first argue that Plaintiffs incorrectly seek double
8 recovery for Federal Express delivery of the copies of the prior
9 briefing to this Court. District's Remand Opp'n at 10. But Kristen
10 noted that two separate shipments were required because the briefing
11 was voluminous. Kristen Remand Reply Decl. at ¶ 14. This is a
12 plausible explanation and the Court finds the delivery fees
13 recoverable. See, e.g., United Steelworkers, 896 F.2d at 407 (allowing
14 recovery for reasonable out-of-pocket expenses).

15 Defendants next argue that Kristen's travel costs are not
16 recoverable because they would ordinarily not be billed to a paying
17 \$customer. District's Remand Opp'n at 10. The Court disagrees. See
18 Marbled Murrelet v. Pacific Lumber Co., 163 F.R.D. 308, 327 (N.D. Cal.
19 1995).

20
21 ¹⁶ The City also requests that the Court hold it responsible for
22 "no more than twenty percent of [the awarded] fees, given its limited
23 involvement in the alleged violations, the overall litigation and the
24 limited relief obtained by Plaintiffs as to Defendant City
25 specifically." City's Remand Suppl. Opp'n at 13. The Court declines
26 to make such a determination. First, the request appears to be moot
27 as the Defendants seemingly have already worked out an agreement on
28 apportioning fees in this case. See, e.g., Kristen Remand Decl. ¶ 22,
33 (the City paid 20% of undisputed fee amount and the District paid
the remaining 80%). Second, the issue was not sufficiently briefed
for this Court to make any such determination. The City provides a
few examples of instances in which fees purportedly relate to the
District rather than the City. See, e.g., City's Remand Suppl. Opp'n
at 2-3. The District for its part is silent on the issue.

1 Accordingly, Plaintiffs are entitled to recover the full amount of
2 costs sought in their Remand Fees Motion.

3 **III. CONCLUSION**

4 For the reasons set forth above, the Court hereby AWARDS
5 Plaintiffs the following:

6		
7	Fees for Initial Fee Motion:	<u>\$723,296.10</u> ¹⁷
8	Interest on Additional Amount:	<u>\$55,059.90</u>, plus <u>\$50.10</u> per day
9		until paid
10	Interest on Undisputed Amount:	<u>\$13,674.25</u>
11	Fees Awarded for Remand Fee Motion:	<u>\$14,112.50</u>
12	Costs Awarded for Remand Fee Motion:	<u>\$569.40</u>

13
14 **IT IS SO ORDERED.**

15
16 **DATED: March 3, 2009**

17
18 

19 **AUDREY B. COLLINS**
20 **UNITED STATES DISTRICT CHIEF JUDGE**

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¹⁷ As noted above, a portion of this fee amount has already been paid by Defendants.