

**CITY OF SANTA ROSA
PROFESSIONAL SERVICES AGREEMENT
WITH RENNE SLOAN HOLTZMAN SAKAI LLP
AGREEMENT NUMBER _____**

This "Agreement" is made as of this ____ day of _____, 2017, by and between the City of Santa Rosa, a municipal corporation ("City"), and Renne Sloan Holtzman Sakai LLP, a California limited liability partnership ("Consultant").

R E C I T A L S

- A. City desires legal representation in the matter of in the matter of *Aboudara, et al., v. City of Santa Rosa*, U.S. District Court Case Number CV-17-1661.
- B. City desires to retain a qualified law firm to provide such services as more particularly set forth in Exhibit A to the Agreement.
- C. Consultant represents to City that it is a firm composed of highly trained professionals and is fully qualified to conduct the services described above and render advice to City in connection with said services.
- D. The parties have negotiated upon the terms pursuant to which Consultant will provide such services and have reduced such terms to writing.

AGREEMENT

NOW, THEREFORE, City and Consultant agree as follows:

1. SCOPE OF SERVICES

Consultant shall provide to City the services described in Exhibit A ("Scope of Services"). Consultant shall provide these services at the time, place, and in the manner specified in Exhibit A. Exhibit A is attached hereto for the purpose of defining the manner and scope of services to be provided by Consultant and is not intended to, and shall not be construed so as to, modify or expand the terms, conditions or provisions contained in this Agreement. In the event of any conflict between this Agreement and any terms or conditions of any document prepared or provided by Consultant and made a part of this Agreement, including without limitation any document relating to the scope of services or payment therefor, the terms of this Agreement shall control and prevail.

2. COMPENSATION

a. City shall pay Consultant for services rendered pursuant to this Agreement at the rates, times and in the manner set forth in Exhibit A. Consultant shall submit monthly statements to City which shall itemize the services performed as of the date of the statement and set forth a progress report, including work accomplished during the period, percent of each task completed, and planned effort for the next period. Invoices shall identify personnel who have worked on the services provided, the number of hours each worked during the period covered by the invoice, the hourly rate for each person, and a description of the services performed by each person, consistent with the rates and amounts shown in Exhibit A.

b. The payments prescribed herein shall constitute all compensation to Consultant for all costs of services, including, but not limited to, direct costs of labor of employees engaged by Consultant, travel expenses, telephone charges, copying and reproduction, computer time, and any and all other costs, expenses and charges of Consultant, its agents and employees. In no event shall City be obligated to pay late fees or interest, whether or not such requirements are contained in Consultant's invoice.

c. Notwithstanding any other provision in this Agreement to the contrary, the total maximum compensation to be paid for the satisfactory accomplishment and completion of all services to be performed hereunder shall in no event exceed the sum of two-hundred thousand dollars (\$200,000.00). The City's Chief Financial Officer is authorized to pay all proper claims from Charge Number 030000-5320.

3. DOCUMENTATION; RETENTION OF MATERIALS

a. Consultant shall maintain adequate documentation to substantiate all charges as required under Section 2 of this Agreement.

b. Consultant shall keep and maintain full and complete documentation and accounting records concerning all extra or special services performed by it that are compensable by other than an hourly or flat rate and shall make such documents and records available to authorized representatives of City for inspection at any reasonable time.

c. Consultant shall maintain the records and any other records related to the performance of this Agreement and shall allow City access to such records during the performance of this Agreement and for a period of four (4) years after completion of all services hereunder.

4. INDEMNITY

a. Consultant shall, to the fullest extent permitted by law, indemnify, protect, defend and hold harmless City, and its employees, officials and agents ("Indemnified Parties") from all claims, demands, costs or liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, interest, defense costs, and expert witness fees), that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant, its officers, employees, or agents, in said performance of professional services under this Agreement, excepting only liability arising from the sole negligence, active negligence or intentional misconduct of City.

b. The existence or acceptance by City of any of the insurance policies or coverages described in this Agreement shall not affect or limit any of City's rights under this Section 4, nor shall the limits of such insurance limit the liability of Consultant hereunder. The provisions of this Section 4 shall survive any expiration or termination of this Agreement.

5. INSURANCE

a. Consultant shall maintain in full force and effect all of the insurance coverage described in, and in accordance with, Attachment One, "Insurance Requirements." Maintenance of the insurance coverage set forth in Attachment One is a material element of this Agreement and a material part of the consideration provided by Consultant in exchange for City's agreement to make the payments

prescribed hereunder. Failure by Consultant to (i) maintain or renew coverage, (ii) provide City notice of any changes, modifications, or reductions in coverage, or (iii) provide evidence of renewal, may be treated by City as a material breach of this Agreement by Consultant, whereupon City shall be entitled to all rights and remedies at law or in equity, including but not limited to immediate termination of this Agreement. Notwithstanding the foregoing, any failure by Consultant to maintain required insurance coverage shall not excuse or alleviate Consultant from any of its other duties or obligations under this Agreement. In the event Consultant, with approval of City pursuant to Section 6 below, retains or utilizes any subcontractors or subconsultants in the provision of any services to City under this Agreement, Consultant shall assure that any such subcontractor has first obtained, and shall maintain, all of the insurance coverages set forth in the Insurance Requirements in Attachment One.

b. Consultant agrees that any available insurance proceeds broader than or in excess of the coverages set forth in the Insurance Requirements in Attachment One shall be available to the additional insureds identified therein.

c. Consultant agrees that the insurance coverages and limits provided under this Agreement are the greater of: (i) the coverages and limits specified in Attachment One, or (ii) the broader coverages and maximum limits of coverage of any insurance policy or proceeds available to the name insureds.

6. ASSIGNMENT

Consultant shall not assign any rights or duties under this Agreement to a third party without the express prior written consent of City, in City's sole and absolute discretion. Consultant agrees that the City shall have the right to approve any and all subcontractors and subconsultants to be used by Consultant in the performance of this Agreement before Consultant contracts with or otherwise engages any such subcontractors or subconsultants.

7. NOTICES

Except as otherwise provided in this Agreement, any notice, submittal or communication required or permitted to be served on a party, shall be in writing and may be served by personal delivery to the person or the office of the person identified below. Service may also be made by mail, by placing first-class postage, and addressed as indicated below, and depositing in the United States mail to:

City Representative:

Consultant Representative:

Sue Gallagher, City Attorney
100 Santa Rosa Avenue, Rm 8
Santa Rosa, California 95404
707-543-3040

8. INDEPENDENT CONTRACTOR

a. It is understood and agreed that Consultant (including Consultant's employees) is an independent contractor and that no relationship of employer-employee exists between the parties hereto for any purpose whatsoever. Neither Consultant nor Consultant's assigned personnel shall be

entitled to any benefits payable to employees of City. City is not required to make any deductions or withholdings from the compensation payable to Consultant under the provisions of this Agreement, and Consultant shall be issued a Form 1099 for its services hereunder. As an independent contractor, Consultant hereby agrees to indemnify and hold City harmless from any and all claims that may be made against City based upon any contention by any of Consultant's employees or by any third party, including but not limited to any state or federal agency, that an employer-employee relationship or a substitute therefor exists for any purpose whatsoever by reason of this Agreement or by reason of the nature and/or performance of any services under this Agreement.

b. It is further understood and agreed by the parties hereto that Consultant, in the performance of Consultant's obligations hereunder, is subject to the control and direction of City as to the designation of tasks to be performed and the results to be accomplished under this Agreement, but not as to the means, methods, or sequence used by Consultant for accomplishing such results. To the extent that Consultant obtains permission to, and does, use City facilities, space, equipment or support services in the performance of this Agreement, this use shall be at the Consultant's sole discretion based on the Consultant's determination that such use will promote Consultant's efficiency and effectiveness. Except as may be specifically provided elsewhere in this Agreement, the City does not require that Consultant use City facilities, equipment or support services or work in City locations in the performance of this Agreement.

c. If, in the performance of this Agreement, any third persons are employed by Consultant, such persons shall be entirely and exclusively under the direction, supervision, and control of Consultant. Except as may be specifically provided elsewhere in this Agreement, all terms of employment, including hours, wages, working conditions, discipline, hiring, and discharging, or any other terms of employment or requirements of law, shall be determined by Consultant. It is further understood and agreed that Consultant shall issue W-2 or 1099 Forms for income and employment tax purposes, for all of Consultant's assigned personnel and subcontractors.

d. The provisions of this Section 8 shall survive any expiration or termination of this Agreement. Nothing in this Agreement shall be construed to create an exclusive relationship between City and Consultant. Consistent with all the California Rules of Professional Responsibility, Consultant may represent, perform services for, or be employed by such additional persons or companies as Consultant sees fit .

9. ADDITIONAL SERVICES

Changes to the Scope of Services shall be by written amendment to this Agreement and shall be paid on an hourly basis at the rates set forth in Exhibit A, or paid as otherwise agreed upon by the parties in writing prior to the provision of any such additional services.

10. SUCCESSORS AND ASSIGNS

City and Consultant each binds itself, its partners, successors, legal representatives and assigns to the other party to this Agreement and to the partners, successors, legal representatives and assigns of such other party in respect of all promises and agreements contained herein.

11. TERM, SUSPENSION, TERMINATION

a. This Agreement shall become effective on the date that it is made as set forth on the first page of the Agreement, and shall continue in effect until both parties have fully performed their respective obligations under this Agreement, unless sooner terminated as provided herein.

b. City shall have the right at any time to temporarily suspend Consultant's performance hereunder, in whole or in part, by giving a written notice of suspension to Consultant. If City gives such notice of suspension, Consultant shall immediately suspend its activities under this Agreement, as specified in such notice.

c. City shall have the right to terminate this Agreement at any time, in its absolute discretion and without cause, by giving a written notice of termination to Consultant. Consultant shall have the right to terminate this Agreement on 30 days' written notice to the extent permitted by the California Rules of Professional Responsibility. Upon such termination, Consultant shall submit to City an itemized statement of services performed as of the date of termination in accordance with Section 2 of this Agreement. These services may include both completed work and work in progress at the time of termination. City shall pay Consultant for any services for which compensation is owed; provided, however, City shall not in any manner be liable for lost profits that might have been made by Consultant had the Agreement not been terminated or had Consultant completed the services required by this Agreement. Consultant shall promptly deliver to City all documents related to the performance of this Agreement in its possession or control. All such documents shall be the property of City without additional compensation to Consultant.

12. TIME OF PERFORMANCE

The services described herein shall be provided during the period, or in accordance with the schedule, set forth in Exhibit A. Consultant shall complete all the required services and tasks and complete and tender all deliverables to the reasonable satisfaction of City.

13. STANDARD OF PERFORMANCE

Consultant shall perform all services performed under this Agreement in the manner and according to the standards currently observed by a competent practitioner of Consultant's profession in California. All products of whatsoever nature that Consultant produces under the terms of this Agreement shall be prepared in a professional manner and conform to the standards of quality normally observed by a person currently practicing in Consultant's profession, and shall be provided in accordance with any schedule of performance. Consultant shall assign only competent personnel to perform services under this Agreement. Consultant shall notify City in writing of any changes in Consultant's staff assigned to perform the services under this Agreement prior to any such performance. In the event that City, at any time, desires the removal of any person assigned by Consultant to perform services under this Agreement, because City, in its sole discretion, determines that such person is not performing in accordance with the standards required herein, Consultant shall remove such person immediately upon receiving notice from City of the desire of City for the removal of such person.

14. CONFLICTS OF INTEREST

Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, that would conflict in any manner with the interests of City or Dillon, or that would in any way hinder Consultant's performance of services under this

Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor, without the written consent of City.

15. CONFLICT OF INTEREST REQUIREMENTS

a. **Generally.** The City's Conflict of Interest Code requires that individuals who qualify as "consultants" under the Political Reform Act, California Government Code sections 87200 *et seq.*, comply with the conflict of interest provisions of the Political Reform Act and the City's Conflict of Interest Code, which generally prohibit individuals from making or participating in the making of decisions that will have a material financial effect on their economic interests. The term "consultant" generally includes individuals who make governmental decisions or who serve in a staff capacity.

b. **Conflict of Interest Statements.** The individual(s) who will provide services or perform work pursuant to this Agreement are "consultants" within the meaning of the Political Reform Act and the City's Conflict of Interest Code:

___ yes no (check one)

If "yes" is checked by the City, Consultant shall cause the following to occur within 30 days after execution of this Agreement:

- (1) Identify the individuals who will provide services or perform work under this Agreement as "consultants"; and
- (2) Cause these individuals to file with the City Clerk the assuming office statements of economic interests required by the City's Conflict of Interest Code.

Thereafter, throughout the term of the Agreement, Consultant shall cause these individuals to file with the City Clerk annual statements of economic interests, and "leaving office" statements of economic interests, as required by the City's Conflict of Interest Code.

The above statements of economic interests are public records subject to public disclosure under the California Public Records Act. The City may withhold all or a portion of any payment due under this Agreement until all required statements are filed.

16. MISCELLANEOUS

a. **Entire Agreement.** This Agreement contains the entire agreement between the parties. Any and all verbal or written agreements made prior to the date of this Agreement are superseded by this Agreement and shall have no further effect.

b. **Modification.** No modification or change to the terms of this Agreement will be binding on a party unless in writing and signed by an authorized representative of that party.

c. **Compliance with Laws.** Consultant shall perform all services described herein in compliance with all applicable federal, state and local laws, rules, regulations, and ordinances, including but not limited to, (i) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101, *et seq.*) ("ADA"), and any regulations and guidelines issued pursuant to the ADA; and (ii) Labor Code sections 1720, *et seq.*, which require prevailing wages (in accordance with DIR determinations at www.dir.ca.gov) be paid to any employee performing work covered by Labor Code sections 1720 *et seq.* Consultant shall pay to the

City when due all business taxes payable by Consultant under the provisions of Chapter 6-04 of the Santa Rosa City Code. The City may deduct any delinquent business taxes, and any penalties and interest added to the delinquent taxes, from its payments to Consultant.

d. Discrimination Prohibited. With respect to the provision of services under this Agreement, Consultant agrees not to discriminate against any person because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status of that person.

e. Governing Law; Venue. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of California. Venue of any litigation arising out of or connected with this Agreement shall lie exclusively in the state trial court in Sonoma County in the State of California, and the parties consent to jurisdiction over their persons and over the subject matter of any such litigation in such court, and consent to service of process issued by such court.

f. Waiver of Rights. Neither City acceptance of, or payment for, any service or performed by Consultant, nor any waiver by either party of any default, breach or condition precedent, shall be construed as a waiver of any provision of this Agreement, nor as a waiver of any other default, breach or condition precedent or any other right hereunder.

g. Incorporation of Attachments and Exhibits. The attachments and exhibits to this Agreement are incorporated and made part of this Agreement, subject to terms and provisions herein contained.

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17. AUTHORITY; SIGNATURES REQUIRED FOR CORPORATIONS

Consultant hereby represents and warrants to City that it is (a) a duly organized and validly existing Limited Liability Partnership, formed and in good standing under the laws of the State of California, (b) has the power and authority and the legal right to conduct the business in which it is currently engaged, and has all requisite power and authority and the legal right to consummate the transactions contemplated in this Agreement. Consultant hereby further represents and warrants that this Agreement has been duly authorized, and when executed by the signatory or signatories listed below, shall constitute a valid agreement binding on Consultant in accordance with the terms hereof.

Executed as of the day and year first above stated.

RENNE SLOAN HOLTZMAN SAKAI LLP

CITY OF SANTA ROSA

a Municipal Corporation

TYPE OF BUSINESS ENTITY (*check one*):

- Individual/Sole Proprietor
- Partnership
- Corporation
- Limited Liability Company
- Other (please specify: Limited Liability Partnership)

By: _____

Print Name: _____

Title: _____

Signatures of Authorized Persons:

By: _____

Print Name: _____

Title: _____

By: _____

Print Name: _____

Title: _____

APPROVED AS TO FORM:

Office of the City Attorney

City of Santa Rosa Business Tax Cert. No.

Attachments:

- Attachment One - Insurance Requirements
- Exhibit A - Scope of Services and Compensation

**ATTACHMENT ONE
INSURANCE REQUIREMENTS FOR
PROFESSIONAL SERVICES AGREEMENTS**

A. Insurance Policies: Consultant shall, at all times during the terms of this Agreement, maintain and keep in full force and effect, the following policies of insurance with minimum coverage as indicated below and issued by insurers with AM Best ratings of no less than A-:VI or otherwise acceptable to the City.

Insurance	Minimum Coverage Limits	Additional Coverage Requirements
1. Commercial general liability	\$ 1 million per occurrence \$ 2 million aggregate	Coverage must be at least as broad as ISO CG 00 01 and must include completed operations coverage. If insurance applies separately to a project/location, aggregate may be equal to per occurrence amount. Coverage may be met by a combination of primary and umbrella or excess insurance but umbrella and excess shall provide coverage at least as broad as specified for underlying coverage. Coverage shall not exclude subsidence.
2. Business auto coverage	\$ 1 million	ISO Form Number CA 00 01 covering any auto (Code 1), or if Consultant has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$ 1 million per accident for bodily injury and property damage.
3. Professional liability (E&O)	\$ 1 million per claim \$ 1 million aggregate	Consultant shall provide on a policy form appropriate to profession. If on a claims made basis, Insurance must show coverage date prior to start of work and it must be maintained for three years after completion of work.
4. Workers' compensation and employer's liability	\$ 1 million	As required by the State of California, with Statutory Limits and Employer's Liability Insurance with limit of no less than \$ 1 million per accident for bodily injury or disease. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Consultant, its employees, agents and subcontractors.

B. Endorsements:

1. All policies shall provide or be endorsed to provide that coverage shall not be canceled, except after prior written notice has been provided to the City in accordance with the policy provisions.

2. Liability, umbrella and excess policies shall provide or be endorsed to provide the following:
 - a. For any claims related to this project, Consultant's insurance coverage shall be primary and any insurance or self-insurance maintained by City shall be excess of the Consultant's insurance and shall not contribute with it; and,
 - b. **The City of Santa Rosa, its officers, agents, employees and volunteers are to be covered as additional insureds on the CGL policy.** General liability coverage can be provided in the form of an endorsement to Consultant's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used.

C. Verification of Coverage and Certificates of Insurance: Consultant shall furnish City with original certificates and endorsements effecting coverage required above. Certificates and endorsements shall make reference to policy numbers. All certificates and endorsements are to be received and approved by the City before work commences and must be in effect for the duration of the Agreement. The City reserves the right to require complete copies of all required policies and endorsements.

D. Other Insurance Provisions:

1. No policy required by this Agreement shall prohibit Consultant from waiving any right of recovery prior to loss. Consultant hereby waives such right with regard to the indemnitees.
2. All insurance coverage amounts provided by Consultant and available or applicable to this Agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement limits the application of such insurance coverage. Defense costs must be paid in addition to coverage amounts.
3. Policies containing any self-insured retention (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either Consultant or City. Self-insured retentions above \$10,000 must be approved by City. At City's option, Consultant may be required to provide financial guarantees.
4. Sole Proprietors must provide a representation of their Workers' Compensation Insurance exempt status.
5. City reserves the right to modify these insurance requirements while this Agreement is in effect, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Exhibit A

Scope of Services and Compensation

EXHIBIT A



Renne Sloan Holtzman Sakai
Public Law Group®

350 Sansome Street, Suite 300
San Francisco, CA 94104
(415) 678-3800

Jonathan Holtzman
415-678-3807
Jholtzman@publiclawgroup.com

July 12, 2017

Via E-mail & U.S. Mail

Sue Gallagher, City Attorney
City of Santa Rosa
Office of the City Attorney
100 Santa Rosa Avenue, Room 8
Santa Rosa, CA 95404
sgallagher@srcity.org

**Re: Aboudara et. al. v. City of Santa Rosa, Case No. 4:17-cv-01661-HSG
(USDC, Northern District of California)**

Dear Ms. Gallagher:

On behalf of Renne Sloan Holtzman Sakai LLP | Public Law Group, I am pleased to respond to your request for a proposal for the defense of the City in the above referenced matter.

Timothy Aboudara, Jr. brings an action under the Federal Labor Standards Act (“FLSA”) on behalf of himself and all similarly situated individuals (collectively, “Plaintiff”). Plaintiff claims that the City has failed to include (1) “holiday in lieu” pay, and (2) incentive payments for the non-use of sick leave in the City’s “regular rate” of pay formula, which is used to calculate overtime pay.

We affirm that we possess the knowledge, experience, resources and ability to provide the services requested, and we look forward to the City’s consideration of our proposal.

I. INTRODUCTION

As you know, we have been actively involved in handling and analyzing the issues raised in this lawsuit since the last round of negotiations with the Fire Union. We have researched the issues, and have outlined initial motions for summary judgment. We have presented our analysis directly to the City Council, to City staff and to the Fire Union. We have proposed a new methodology to calculate the regular rate in the future, and have presented this proposal to the Fire Union.

The issues in this lawsuit are intertwined with the issues currently subject to negotiation with the Fire Union. Comprehensive “overtime reform” is on the table and subject to ongoing discussions with the Union. Again, we have specifically proposed the FLSA “fix” formula at the bargaining table.

July 12, 2017

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Art Hartinger would serve as lead counsel in this case. He has years of experience in FLSA and wage and hour litigation. A copy of his representative CV is attached for your reference. Art will be joined by Linda Ross and Kevin McLaughlin, who also possess extensive wage and hour experience. Our collective experience is described more fully below.

For all of these reasons, and as outlined in this proposal, we are uniquely qualified and situated to serve the City. We hope to be able to continue our representation.

II. FIRM OVERVIEW AND RELEVANT EXPERIENCE

We have extensive experience advising and representing public agencies in all areas of labor and employment law, including FLSA claims and compliance. RSHS has represented public agencies in FLSA litigation regarding alleged wage and hour violations, including cases involving exemptions, overtime pay, and pay for donning and doffing uniforms. Below please find an overview of our recent FLSA litigation experience:

- *Stitt, et al. v. San Francisco Municipal Transportation Agency*: The Firm defended City and County of San Francisco and its municipal transportation agency in hybrid FLSA collective action and Rule 23 class action that alleged failure to pay for off-the-clock work under the FLSA and state law. The case was brought on behalf of all bus, light rail, and cable car operators in the city, and was venued in the Northern District of California. After several years of litigation, the case settled on terms favorable to the City. The hearing on final approval of the settlement will occur shortly.
- *Rai, et al. v. Santa Clara Valley Transportation Authority*: The Firm defended Santa Clara Valley Transportation Authority in a hybrid FLSA collective action and Rule 23 class action that alleged failure to pay for off-the-clock work under the FLSA and state law. The case was brought on behalf of all bus and light rail operators employed by the authority, and was venued in the Northern District of California. After several years of litigation, the case settled on terms favorable to the Transportation Authority.
- *Mustard, et al. v. City of Vallejo*: The Firm defended City of Vallejo in FLSA collective action that alleged failure to correctly calculate the regular rate for overtime. The case was brought on behalf of all non-exempt city employees, and was venued in the Eastern District of California. We achieved an early settlement on terms favorable to the City.
- *Beidleman, et al. v. City of Modesto*: The Firm defended City of Modesto in an FLSA collective action that alleged failure to correctly calculate the regular rate for overtime. The case was brought on behalf of all city fire fighters, and was venued in the Eastern District of California. A tentative settlement agreement is pending.
- *Meinhardt, et al. v. City of Sunnyvale*: The Firm defended City of Sunnyvale in FLSA collective action that alleged failure to correctly calculate the regular rate for

overtime. The case was brought on behalf of all non-exempt city employees, and was venued in the Northern District of California. A tentative settlement agreement is pending.

- *Kerzich, et al. v. County of Tuolumne*: The Firm is defending County of Tuolumne in FLSA collective action alleging failure to correctly calculate the regular rate for overtime. The case was brought on behalf of all non-exempt county employees, and is venued in the Eastern District of California. Fact discovery has concluded and the case is in the expert discovery phase.
- *Foster, et al. v. County of Solano*: The Firm is defending County of Solano in FLSA collective action alleging failure to correctly calculate the regular rate for overtime. The case was brought on behalf of all non-exempt county employees, and is venued in the Eastern District of California. The case is in the early stages of discovery, and the parties have briefed the plaintiffs' motion for conditional certification as a collective action.
- *Miller, et al. v. Regents of the University of California*: The Firm is defending the UC Regents in hybrid FLSA collective action and Rule 23 class action, alleging failure to correctly calculate the regular rate for overtime, and seeking additional damages pursuant to state law. The case is in its initial stages.

In addition, our Firm is well informed about this case in particular. Beginning in August of last year, RSHS has advised the City in connection with efforts to settle this claim short of litigation. To date, in the litigation, our Firm has answered the Complaint on behalf of the City.

Finally, our Firm's labor negotiations team is currently representing the City during the negotiation of successor Memoranda of Understanding with all represented bargaining units. Negotiations with Santa Rosa Firefighters Local 1401, in particular, have addressed the topic of "regular rate" extensively.

III. PROPOSED SCOPE OF WORK

We expect that the case will involve the following work as it proceeds in the Federal District Court:

A. Class certification.

Plaintiffs have filed a motion for preliminary class certification to be heard on August 31, 2017, and the City must file a response by July 31, 2017.

B. Discovery.

Plaintiffs have served a request for production of documents on the City. We expect that both sides will seek production of documents, serve interrogatories and conduct depositions.

July 12, 2017

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C. Expert discovery.

Both sides may retain experts on the issue of damages.

D. Motions for summary judgment.

As discussed previously, we believe it will be useful to file a motion for partial summary judgment focused on whether the City must include holiday-in-lieu pay toward the regular rate of pay. The Court has a local rule permitting only one motion for summary judgment, so we will seek permission for relief from this rule. Resolving this issue early will presumably foster and early resolution to this case.

E. Trial.

We hope to resolve the case short of trial but are prepared to try the case if necessary. We have extensive trial experience.

IV. PRICING

The Firm will bill the City for professional services at our reduced hourly billing rate in place through our existing contract with the City for labor and personnel advice work: \$295 per hour blended rate for attorney time. Paralegals would be billed at \$105 - \$175 per hour.

Mileage will be billed at the then-current IRS rate. In recognition of the Firm's current billing arrangement with the City for other legal services, we would be pleased to limit our billing for travel time to 1.5 hours per one-way trip.

Thank you for your consideration and if you have any questions or need any additional information, please do not hesitate to contact me.

Sincerely,



Jonathan Holtzman

Encl(s): Arthur Hartinger – Resume
Linda Ross – Resume
Kevin McLaughlin – Resume