

Maloney, Mike

From: Maloney, Mike
Sent: Thursday, April 12, 2018 11:02 AM
To: _PLANCOM - Planning Commission
Cc: Gage, Eric
Subject: Late Correspondence Item 9.2
Attachments: Late Correspondence (4.12.18 11am).pdf

Good Afternoon Commissioners,

Attached is a late correspondence for Item 9.2.

I will update the legislative record now. Any future late correspondence will be distributed at the meeting.

Thanks,

Mike Maloney | Administrative Secretary

Planning and Economic Development | 100 Santa Rosa Avenue, Room 3 | Santa Rosa, CA 95404

Tel. (707) 543-3190 | Fax (707) 543-3269 | mmaloney@srcity.org

Unit 4 Representative SRCEA | Teamsters Local 856



**SETTLEMENT AGREEMENT BETWEEN VILLAGES AT WILD OAK ASSOCIATION
AND THE CITY OF SANTA ROSA**

This Settlement Agreement ("Agreement") is entered into as of 11/14, 2016 ("Effective Date") by and between The Villages at Wild Oak Association, a California mutual benefit non-profit corporation ("Association") and the City of Santa Rosa, a municipal corporation ("City"). The Association and the City are each referred to individually as a "Party" and collectively as the "Parties."

RECITALS

A. On November 4, 2010, the City filed a lawsuit against the Association and the Roman Catholic Bishop of Santa Rosa, a California Corporation, in which the Association filed a cross-complaint against the City, entitled City of Santa Rosa v. Villages at Wild Oak Association, County of Sonoma Case No. SCV 248544 (the "Action").

B. On January 7, 2016, the Superior Court entered a final judgment in the Action as between the City and the Association, the Amended Corrected Judgment (the "Judgment"), a true and correct copy of which is attached hereto as **Exhibit A**.

C. On July 6, 2016, the Superior Court entered a post-judgment order granting the Association's motion for attorney's fees in the amount of 205,000.00 ("Fee Order"), a true and correct copy of which is attached hereto as **Exhibit B**.

D. On November 20, 2015, the Association had filed a Memorandum of Costs in the amount of \$2,738.72 in costs (excluding attorney's fees), which the City did not seek to tax.

E. On March 10, 2016 and September 2, 2016, the City filed notices of appeal of the Judgment and the Fee Order, respectively.

F. The Parties, wishing to avoid the uncertainties, delay and expense of continued litigation, agree to settle upon the following terms.

TERMS

In consideration of the Recitals set forth above, the terms and conditions of this Agreement and other valuable consideration, the adequacy of which is hereby acknowledged, the Parties agree as follows:

1. Payment Amount: The City shall pay to Association, and Association shall accept, the sum of \$182,738.72 (One Hundred Eighty Two Thousand Seven Hundred Third Eight Dollars and 72 cents) in total, for any and all claims to litigation expenses (e.g., attorney fees and costs) in connection with this Action (the "Settlement Payment").

2. Payment Procedure: Within 30 days of the Effective Date of this Agreement, the City shall deliver the Settlement Payment to Michael Scott, Esq., P.O. Box 3802, Santa Rosa

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CA 95402-3802. The form of the Settlement Payment shall be by check in the agreed Payment Amount made payable jointly to "The Villages at Wild Oak Association and its Attorney of Record, Michael P. Scott."

3. Dismissal: Within seven days of Effective Date of this Agreement, the City shall file requests for dismissal of the City's appeals of the Judgment and Fee Order. The Association will cooperate with the City in seeking the dismissal of the appeals, if requested by the City, e.g., by stipulating to the dismissals.

2. Fees and Costs: Except as otherwise set forth herein, each Party shall bear its own attorneys' fees and costs with respect to the Action, including without limitation the negotiation of this Agreement.

3. Amending the City's Bicycle & Pedestrian Master Plan. City staff shall recommend to the Bicycle & Pedestrian Advisory Board, the Planning Commission and the City Council an amendment to the City of Santa Rosa's 2010 Bicycle & Pedestrian Master Plan to delete all depictions and text referring to public bicycle use on the Public Access Easement on property owned by the Wild Oak Association and/or the Roman Catholic Diocese between Channel Drive and White Oak Drive in Santa Rosa. The Easement is depicted as part of "Route 231" in the 2010 Bicycle & Pedestrian Master Plan.

4. Press Release. The City shall issue press release ten days after the last of the following acts occur: the Agreement is fully executed; City has dismissed the appeals as required by Paragraph 3 of this Agreement; and City has made the Settlement Payment as required by Paragraphs 2 and 3 of this Agreement. The press release shall include language in substantially the following form:

In City of Santa Rosa v. Villages at Wild Oak Association, County of Sonoma Case No. SCV-248544, the Superior Court resolved a dispute over the Public Access Easement on property owned by The Villages at Wild Oak Association and Roman Catholic Diocese between Channel Drive and White Oak Drive in Santa Rosa. The City asserted that the public may use the Easement as a bike path or horse trail, while the Association and Church argued that the Easement gives the public no such rights. The Easement is depicted as part of "Route 231" on the City of Santa Rosa's 2010 Bicycle & Pedestrian Master Plan.

The court ruled that the public has the right to use the Easement only as a pedestrian footpath and for emergency vehicle access. The court's ruling made clear that the public has no right to use the Easement as a bike path or horse trail. That ruling is now final.

5. Mutual Release: Except for the obligations specified herein, the Parties hereby release and forever discharge each other, together with their employees, officers, agents, representatives, trustees, directors, partners, stockholders, attorneys, successors, assigns, heirs, personal representatives and executors, and all persons, firms, associations, co-partners, co-

2 of 4

venturers, insurers, contractors, engineers, subcontractors, subsidiaries, parents, affiliates, or corporations connected therewith, and each of them from any and all claims, debts, liabilities, demands, obligations, costs, expenses, attorneys' fees, actions, and causes of actions of every nature, character, and description whether known or unknown, directly or indirectly arising out of any matter, fact, and/or allegation related to the Action.

6. Waiver of California Civil Code Section 1542: The Parties, on behalf of themselves, attorneys, heirs, predecessors, successors, and assigns, acknowledge that each is aware of the provisions of Section 1542 of the California Civil Code, and expressly waives any rights or benefits that may be available under Section 1542, which provides: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

7. Entire Agreement:

a. The Agreement constitutes the full and entire agreement between the Parties with respect to the subject matter of this Agreement, superseding all prior agreements, negotiations and discussions between the Parties, and the Parties acknowledge that there is no other agreement, oral or written, regarding the subject matter of this Agreement. This Agreement may not be modified, except by a written instrument executed by both of the Parties.

b. The Parties acknowledge: (a) the Agreement and its reduction to final form is the result of good faith negotiations between the Parties through their respective counsel; (b) the Parties' counsel have reviewed and examined the Agreement before execution; and (c) the Parties agree that this Agreement is the project of joint draftsmanship and that should any of the terms be determined by a Court, or in any type of quasi-judicial or other proceeding, to be vague, ambiguous and/or unintelligible, that the sentences, phrases, clauses or other wording or language of any kind shall not be construed for or against any Party in accordance with California Civil Code Section 1654, and that each party to this Agreement waives the effect of that statute.

8. Severability: If any word, phrase, clause, sentence, provision, or paragraph of this Settlement Agreement is or shall be held invalid or unlawful for any reason, the same shall be deemed severed from the remainder hereof, and stricken therefrom, and shall in no way affect or impair the validity of this Agreement or any other portion thereof, and this Settlement Agreement shall otherwise remain in full force and effect.

9. Binding Effect: This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, legal representatives, successors, assigns and transferees.

10. Informed Consent: This Agreement is freely and voluntarily entered into by the Parties and each of them. Each of the Parties has had the benefit of advice of counsel of its choice in the negotiating, drafting and execution of this Agreement and the language in all parts of this Agreement is the product of the efforts of all counsel, or freely and voluntarily

waived that right. Accordingly, neither the entire Agreement nor any provision in it shall be deemed to have been proposed or drafted by a Party or construed against any Party.

11. Gender Neutral: As used in this Agreement, the masculine, feminine, or neuter gender, and the singular or plural number shall each be deemed to include the other whenever the contents so indicate.

12. Governing Law: This Agreement shall be interpreted and governed according to the laws of the State of California.

13. Captions and Paragraph Headings: Captions and paragraph headings used herein are for convenience only. They are not a part of this Agreement and shall not be used in construing this Agreement.

14. Authority to Execute: The undersigned warrant that they are fully authorized to execute this agreement on behalf of their principals.

15. Execution in Counterparts and Copies: This Agreement may be executed in one or more identical counterparts and all such counterparts together shall constitute a single instrument for the purpose of the effectiveness of this Agreement. Photocopies or facsimiles shall constitute good evidence of such execution.

The Parties have signed this Agreement as of the date stated in the introductory clause.

City of Santa Rosa

The Villages at Wild Oak Association, a
California mutual benefit corporation.

By: _____

Name: Sean McGlynn

Title: City Manager

By: _____

Name: Tom Beirne

Title: Secretary

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____

Teresa Stricker, Interim City Attorney

By: _____

Michael P. Scott, Attorney for The
Villages at Wild Oak Association

EXHIBIT A

1 CAROLINE L. FOWLER, City Attorney (SBN 110313)
 2 JOHN J. FRITSCH, Assistant City Attorney (SBN 172182)
 3 City of Santa Rosa
 4 100 Santa Rosa Avenue, Room 8
 5 Santa Rosa, California 95404
 6 Telephone: (707) 543-3040
 7 Facsimile: (707) 543-3055

ENDORSED
 FILED

JAN 07 2016

SUPERIOR COURT OF CALIFORNIA
 COUNTY OF SONOMA

8 Attorneys for Plaintiff/Cross-Defendant
 9 CITY OF SANTA ROSA

10
 11 SUPERIOR COURT OF CALIFORNIA
 12 COUNTY OF SONOMA

13 CITY OF SANTA ROSA,

CASE NO. SCV-248544

14 Plaintiff,

(proposed) AMENDED CORRECTED
 JUDGMENT

15 v.

16 VILLAGES AT WILD OAK
 17 ASSOCIATION, a California mutual
 18 benefit corporation; ROMAN
 19 CATHOLIC BISHOP OF SANTA ROSA,
 20 a California corporation; and DOES 1
 through 100,

Unlimited Civil Case

Assigned Judge: Hon. Elliot Lee Daum

21 Defendants.

22
 23 AND RELATED CROSS-ACTION.

24 This action came on regularly for trial on February 9, 2015, in Department 16 of this
 25 Court, the Honorable Elliot Daum, presiding. The Plaintiff/Cross-Defendant, City of Santa Rosa
 26 ("Plaintiff" or "City") appeared by its attorneys, City Attorney Caroline Fowler and Asst. City
 27 Attorney John Fritsch, while Defendant/Cross-Complainant The Villages at Wild Oak
 28 ("Defendant" or "The Villages") appeared by its attorney, Michael P. Scott.

Plaintiff asserts five causes of action in its First Amended Complain, for: (1) Declaratory
 Relief that Plaintiff was grated a public easement for bicycling, horseback riding, pedestrians and

1 emergency vehicles by express dedication; (2) abatement of a public nuisance, as defined by the
2 City's Zoning Code; (3) violation of the City's sign code; (4) unpermitted encroachment into the
3 public easement by the Villages' signs and (5) prescriptive easement. It should be noted that
4 causes of action (2), (3), and (4) all allege violations of various provisions of the City's
5 municipal code.

6 On January 20, 2015, the Court denied summary judgment and summary adjudication to
7 Plaintiff on all grounds it raised, while summarily adjudicating, in Defendant's favor, the
8 following issues: (a) "[Defendant] holds clear title to the property in question subject only to a
9 public easement of record for 'Pedestrian and Emergency Vehicle Access'" (Jan. 20 Order, p. 18,
10 ln. 16-18); and (b) "Defendant [] is not liable for any alleged violation of Plaintiff[]'s signage,
11 encroachment, or permitting laws." (Jan. 20 Order, p. 18, ln. 19-20). On September 22, 2015, in
12 response to Defendant's Motion for Judgment on the Pleadings, this Court expressly granted
13 Defendant judgment on causes of action (2) and (3) as set forth above, yet purported to deny
14 Defendant judgment on cause of action (4) above, while erroneously labelling that last cause of
15 action as one for "prescriptive easement" (which is actually Plaintiff's Fifth Cause of Action).

16 For the above reasons, this Court now grants judgment on Plaintiff's First Amended
17 Complaint as follows:

- 18 (1) On the First Cause of Action, for Declaratory Relief, judgment in favor of
19 Defendant and against Plaintiff;
- 20 (2) On the Second Cause of Action, abatement of a public nuisance, judgment in
21 favor of Defendant and against Plaintiff;
- 22 (3) On the Third Cause of Action, alleging violation of Plaintiff's sign code,
23 judgment in favor of Defendant and against Plaintiff;
- 24 (4) On the Fourth Cause of Action, alleging unpermitted encroachment into the public
25 easement, the Court finds:

26 [XX] sua sponte, pursuant to Code of Civil Procedure section 1008(c) and/or Code of
27 Civil Procedure section 473(d), that its Memorandum of September 22, 2015 ("Sept 22
28 Memo") erroneously mislabeled the substance of this cause of action, and therefore the

1 Court now enters judgment in favor of Defendant and against Plaintiff; and

2 (5) On the Fifth Cause of Action, for "prescriptive easement," the Court holds that --
3 to the extent Plaintiff wishes to prove that the public's use of the subject easement
4 for "recreational" bicycle riding for the prescriptive period has established it s
5 right to do so -- such a claim is barred by Civil Code sections 1007 - 1009; the
6 Court therefore now enters judgment in favor of Defendant and against Plaintiff to
7 the extent the latter seeks a "recreational prescriptive easement" for bicycling. In
8 contrast, to the extent Plaintiff wishes to prove that the public's use of the subject
9 easement for "transportational" only bicycle riding for the prescriptive period has
10 established its right to do so, the Court holds that Plaintiff may proceed to trial on
11 that claim. however, Plaintiff has repeatedly indicated (including on the
12 designated date for trial) that it does not wish to proceed to trial at this time on
13 such a theory of "transportational prescriptive easement" for bicycle riders, and
14 there Plaintiff voluntarily dismisses without prejudice this portion of its Fifth
15 Cause of Action, and the Court accordingly enters judgment in favor of Defendant
16 and against Plaintiff at this time on Plaintiff's Fifth Cause of Action.

17 Moreover, with regard to its Cross-Complaint, Defendant indicates that it voluntarily
18 dismisses without prejudice all its causes of action.

19 NOW, THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED, that, pursuant
20 to Code of Civil Procedure Section 1032(a)(4), judgment is granted in favor of Defendant The
21 Villages as Wild Oak Homeowners' Association and against Plaintiff City of Santa Rosa, and
22 Defendant the Villages shall have and recover its costs of suit and against Plaintiff City in a sum
23 to be determined, in support of which The Villages shall file a Memorandum of Costs. This
24 award of costs shall accrue interest in accordance with Code of Civil Procedure Section 685.010.

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IT IS FURTHER ORDERED that Defendant the Villages shall submit its Motion seeking recovery of its attorneys' fees by no later than 60 days from the filing of Notice of Entry of this Amended Corrected Judgment.

Jan 6, 2016
~~Dated: December 11, 2015.~~

ELLIOT LEE DAUM

ELLIOT LEE DAUM
Judge of the Superior Court

EXHIBIT B

1 HONORABLE ELLIOT LEE DAUM
2 SUPERIOR COURT OF CALIFORNIA
3 COUNTY OF SONOMA
4 600 Administration Drive
5 Santa Rosa, CA 95403
6 (707) 521-6740

**ENDORSED
FILED**

JUL 06 2016

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SONOMA**

8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF SONOMA

11 City of Santa Rosa,

12 Plaintiff,

13 v.

14 The Villages at Wild Oak Association,

15 Defendant.

Case No.: SCV-248544

RULING AFTER HEARING
RE: ATTORNEY FEES

17 This came on calendar for Defendant the Villages at Wild Oak Association's (the
18 Defendant) motion for attorney fees. The Defendant claims attorney fees under four theories: (1)
19 As sanctions under CCP § 128.5; (2) under CCP § 1021.5 as a "private attorney general"; (3)
20 under CCP § 1021.9 arguing that the easement in question was used "for the raising of
21 livestock"; and (4) pursuant to Santa Rosa City Code §§ 13-04.370 and 28.010(B) as applied
22 under Govt. Code § 38773.5(b). Under each of these theories the Defendant seeks a total of
23 \$341,216.29 in fees.

24
25 Plaintiff City of Santa Rosa (the City) opposes, arguing that the Defendant is not entitled to
26 attorney fees under CCP §§ 128.5 or 1021.5 because the matter was not frivolous and the
27 Defendant cannot meet each of the elements for a "private attorney general." Further, the City
28 argues, for a variety of reasons, that any award to the Defendant must be apportioned, and the

1 fees sought are unreasonable. The City further contends that the Defendant would not be entitled
2 to "pre-litigation" fees. The City also argues that any award based on "nuisance" and Santa Rosa
3 City Code §§ 13-04.370 and 28.010(B) is limited to an hourly rate of \$139.33 per hour.
4

5 In reply, the Defendant argues that apportionment is not appropriate because all of the City's
6 claims revolved around a single issue, namely, did "public recreational bicyclists" have an
7 enforceable right to use the subject easement—including several causes of action sounding in
8 nuisance. The Defendant also claims that it is entitled to its "pre-litigation" fees under both CCP
9 § 1021.5 and the reciprocal provisions of the Santa Rosa City Code § 1-30.030(F). The
10 Defendant further takes issue with the City's claim that its fees are limited to \$139.33 per hour.
11 The Defendant takes issue with the City's calculation, and notes that nowhere does the city
12 provide the number of hours it spent on the matter. The Defendant argues that the City's
13 calculation is incomplete because pursuant to SR City Code § 1-30.030(F) the Defendant is
14 limited to the "amount" not the rate that the City expended in attorney fees.
15

16 The court finds that the Defendant is entitled to its attorney fees pursuant to Santa Rosa City
17 Code §§ 13-04.370 and 28.010(B). Further, the court finds that the award does not need to be
18 apportioned. It is well-settled that the trial court need not apportion when the various claims are
19 "inextricably intertwined [citation], making it 'impracticable, if not impossible, to separate the
20 multitude of conjoined activities into compensable or non-compensable time units.'" (*Abdallah v.*
21 *United Savings Bank* (1996) 43 Cal.App.4th 1101, 1111., quoting *Fed-Mart Corp. v. Pell*
22 *Enterprises, Inc.* (1980) 111 Cal.App.3d 215, 227.)
23

24 Whether to apportion fees between those incurred in litigating a cause of action for which fees
25 are awardable under a contractual provision and those incurred in litigating other causes of action
26 is within the trial court's discretion. (*Abdallah, supra*, 43 Cal.App.4th at p. 1111.) Here, the
27 issue of the easement and the City's nuisance claims were inextricably intertwined, to the extent
28 apportionment would be impracticable. Moreover, the court finds that the Defendant is entitled

1 to its pre-litigation fees. (See SR Code § 1-30.030(F).) The court is, however, concerned that the
2 City's analysis of the "amount" of attorney fees is incomplete.

3
4 With respect to the Defendant's other theories on which it seeks attorney fees, the court is not
5 persuaded. While the Defendant was successful in defending the City's action, there is no
6 indication that the matter was brought in bad faith, or was frivolous. Further, the court notes that
7 the Defendant was not acting as a private attorney general, in that it was, primarily, focused on
8 preserving its private property rights. Nor is the court inclined to grant fees pursuant to CCP §
9 1021.9—walking horses to adjacent polo fields does not reasonably equate to "raising" livestock.

10
11 Turning from the Defendant's entitlement to fees, the more difficult question is the amount of the
12 award. "[T]he fee setting inquiry in California ordinarily begins with the 'lodestar,' i.e., the
13 number of hours reasonably expended multiplied by the reasonable hourly rate.... The reasonable
14 hourly rate is that prevailing in the community for similar work." (*PLCM Group Inc. v. Drexler*
15 (2000) 22 Cal.4th 1084, 1095; *see also City of Santa Rosa v. Patel* (2010) 191 Cal.App.4th 65.)
16 The so-called lodestar analysis, however, is complicated in this case because the Defendant's
17 recover, under the City code sections authorizing the fees, caps the award to an amount not to
18 "exceed the amount of reasonable attorneys' fees incurred by the city in the action or
19 proceeding."

20
21 Here, the City offers "evidence" that the City Attorney for Santa Rosa earns "\$289,816.59"
22 annually, which breaks down to "\$139.33" per hour. In essence, the City argues that this hourly
23 rate caps the Defendant's recovery. To support the City's analysis, it cites the URL
24 "<http://transparentcalifornia.com/salaries/search/?q=caroline+fowler>." (See Fritsch Dec. ¶ 3.)
25 The City extrapolates from that number the hourly rate—but fails to provide any formulas for
26 how it actually came to this number. Simple arithmetic provides that it is based on approximately
27 2,080 hours (the dividend of \$289,816.59 divided by \$139.33). The Defendant assails the City's
28 position as unsupported and only half of the necessary analysis. The Defendant points out that

1 the City provides no evidence of the number of hours it actually worked on the case, so it would
2 be impossible with only half of the equation to properly determine the statutory cap for the
3 Defendant's fees. The Defendant notes that it is the City's burden of proof, and it failed to
4 present sufficient evidence to establish the cap on attorney fees. The Defendant is correct.

5
6 The City's evidence submitted in opposition is inadequate. The court has visited the URL cited
7 in the City's brief, and notes that nowhere does it provide for an annual income for the City's
8 attorney at "\$289,816.59" annually. The URL actual shows a range between \$249,671.51 for
9 2011 to \$278,591.69 for 2015. This substantially impacts the overall credibility of the figures
10 provided by the City. Moreover, and more troubling, the City completely fails to present any
11 evidence of the number of attorneys that worked on this matter, or the number of hours they put
12 in on this case. With only a dubious hourly rate provided by the City, it has failed to provide
13 sufficient evidence to cap the Defendant's award per GC § 38773.5(b). The statute provides that
14 the Defendant's award cannot "exceed the amount of reasonable attorneys' fees incurred by the
15 city"—this is not subject to parsing just the hourly rate, or the number of hours. To succeed the
16 City had to provide evidence of the "amount of reasonable attorneys' fees incurred." The party
17 opposing the award has the burden to demonstrate that the fees are not reasonable--the City has
18 not met its burden. (See *Center for Biological Diversity v County of San Bernardino (Hawarden*
19 *Dev. Co.)* (2010) 188 Cal.App.4th 603, 620 [holding that if the opposing party does not submit
20 evidence to contradict evidence of the moving party's rates, they are presumed reasonable]; and
21 see, e.g., *Russell v. Foglio* (2008) 160 Cal.App.4th 653, 661.) The court also notes that GC §
22 38773.5(b) does not limit the amount to actual costs incurred, but rather "reasonable" fees
23 incurred. This is not a distinction without a difference. In many ways putting an hourly rate on
24 government attorneys is difficult if not impossible; which allows for the court to simply use a
25 reasonable hourly rate.

26
27 Here, the Defendant is seeking an hourly rate of \$325.00 per hour for 830.8 hours. The
28 Defendant argues that the Court of Appeal awarded the Defendant \$300.00 per hour in an earlier


1 award. (See Dec. Scott ¶ 6.) Indeed, the Defendant avers that the City sought a rate of \$300.00
2 per hour as well. The Defendant provides no evidence to support his hourly fee of \$325.00
3 beyond the DCA's approval of a 300.00 rate. In light of the dearth of evidence, the court will
4 apply the default rate used by the DCA of \$300.00 per hour.
5

6 With respect to the number of hours, the Defendant presents rather detailed redacted invoices
7 indicating 830.8 hours work. The City takes issue with the number of hours claimed by the
8 Defendant, contending that the hours spent on the appeal were already compensated, and that the
9 billing reflects "padding" and block billing. The City cites the Defendant's 55 hours spent on this
10 attorney fees motion as excessive. Having reviewed the areas of concern raised by the City, the
11 court will reduce the number of hours by 50.2—which reflects time that relates to the appeals
12 that were already (and separately compensated) and for excessive amount of time related to the
13 instant motion. The court notes that the number of hours actually reflected in the invoices is
14 735.2, not the 830.8 referenced by the Defendant.
15

16 Accordingly, the court will award the Defendant 685 hours at \$300.00 per hour, for a total fee
17 award of \$205,000.00.
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19 IT IS SO ORDERED.

20 Date: July 6, 2016
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ELLIOT LEE DAUM
SUPERIOR COURT JUDGE

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**PROOF OF SERVICE
BY U.S. MAIL**

I, the undersigned, say:

I am an employee of the Superior Court of Sonoma County; my business address is 600 Administration Dr., Room 105-J, Santa Rosa, CA 95403; I am not a party to the matter or action mentioned in the attached document; and, I am over the age of 18 years.,

I am readily familiar with the Sonoma County Superior Court's practice for collection and processing of correspondence for mailing with the United States Postal Service; and that on the date executed, I placed a true and correct copy of the **RULING AFTER HEARING RE: ATTORNEY FEES** in separate envelopes, sealed and addressed as shown below, for collection and mailing at Santa Rosa, California, first class, postage fully prepaid, following ordinary business practices.

Adrienne Moran
Shapiro, Galvin, et al.
P.O. Box 5589
Santa Rosa, CA 95402-5589

Michael Scott
P.O. Box 3802
Santa Rosa, CA 95402

Caroline Fowler
City of Santa Rosa
100 Santa Rosa Avenue, Room 8
Santa Rosa, CA 95404

Kevin Siegel
Burke, Williams, et al.
1901 Harrison St., Ste. 900
Oakland, CA 94612

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Dated: July 7, 2016

A. FROST,

A. Frost, Judicial Assistant