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8 Attorney for Plaintiff IMMIGRANT RIGHTS
9 DEFENSE COUNCIL, LLC

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11 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF LOS ANGELES, SPRING STREET COURTHOUSE**

13 IMMIGRANT RIGHTS DEFENSE
14 COUNCIL, LLC,

15 Plaintiff,

16 vs.

17 JONATHAN LICUP, *et al.*,
18 Defendants.

19 Case No.: BC680657
20 [Filed: 10/20/2017]
21 [Assgnd: Hon. William F. Highberger]
22 [Dept: 10]

23 **NOTICE OF MOTION AND MOTION OF**
24 **IMMIGRANT RIGHTS DEFENSE**
25 **COUNCIL, LLC, FOR ATTORNEY'S**
26 **FEES; MEMORANDUM IN SUPPORT**
27 **THEREOF; DECLARATION OF**
28 **SEBASTIAN M. MEDVEI**

Hearing Date: February 27, 2019
Time: 11:00 a.m.
Dept: 10

29 Please take notice that on February 27, 2019 at 11:00 a.m., in Department 10 of this
30 Court located at 312 N. Spring St., Los Angeles, CA 90012, Plaintiff IMMIGRANT RIGHTS
31 DEFENSE COUNCIL, LLC ("Plaintiff"), will move for an order directing Defendant
32 JONATHAN LICUP ("Defendant") to pay Plaintiff's attorney's fees in the amount of \$49,250.

33 This motion is made on the grounds that Plaintiff is the prevailing party in this action and
34 is entitled to attorney's fees and costs pursuant to Section 22446.5(b) of the Business and
35 Professions Code. This motion will be based upon this notice, the attached memorandum in


1 support, the attached declaration of Sebastian M. Medvei, and any evidence submitted on or
2 before the date of the hearing.

3 Plaintiff respectfully requests that the motion be granted and that Defendants be ordered
4 to pay Plaintiff's reasonable attorney's fees and costs in the amount of \$49,417.65.

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6 Dated January 14, 2019

Respectfully Submitted,
MEDVEI LAW GROUP, APC

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10 By: _____


Sebastian M. Medvei
Attorney for Plaintiff

1 MEMORANDUM IN SUPPORT THEREOF

2 I. INTRODUCTION / STATEMENT OF FACTS

3 This is an action brought by Plaintiff against Defendant for injunctive relief for violation
4 of the Immigration Consultants Act (ICA). Plaintiff is a nongovernmental organization (NGO)
5 formed for the primary purpose of bringing actions on behalf of the general public for injunctive
6 relief under Section 22446.5(b) of the Business and Professions Code,¹ to shut down illegally
7 operated immigration consultant businesses. The ICA was passed by the California legislature in
8 response to a severe and pervasive problem of non-attorney immigration form-preparers taking
9 advantage of their customers by holding themselves out as, *inter alia*, specialists or authorities in
10 immigration law. It is designed to prevent non-attorneys from engaging in the unauthorized
11 practice of law, fraud, and other unfair and unlawful business practices through civil and
12 criminal enforcement. *See* Joseph M. Gietl, *Like Lambs to the Slaughter: How Unregulated*
13 *Immigration Practitioners Harm Immigrants*, 19 Pub. Interest L. Rptr. 66, 67-69 (2013). The
14 ICA allows immigration consultants, form-preparers, and other non-attorneys to engage in an
15 extremely particularized set of tasks related to immigration. *See* Cal. Bus. & Prof. Code §§
16 22440 & 22441. For example, it allows a non-attorneys to translate questions on immigration
17 forms to a customer and subsequently, translate the customer’s answer to the question, without
18 giving any advice as to how to answer the question, or modifying the answer in any way. *Id.* at §
19 22441.
20

21 Plaintiff was alerted to Defendant’s business as a potential violator and subsequently
22 conducted an investigation through Plaintiff’s Counsel, determining that Defendant’s business
23 was in violation of the ICA. Subsequently, in coordination with Defendant’s Counsel, the parties
24 entered into a stipulated judgment permanently enjoining Defendant from future violations of the
25

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28 ¹ That section reads: “Any other party who, upon information and belief, claims a violation of this chapter has been committed by an immigration consultant may bring a civil action for injunctive relief on behalf of the general public and, upon prevailing, shall recover reasonable attorneys’ fees and costs.” Bus. & Prof. Code § 22446.5(b).

1 ICA. Plaintiff will continue to monitor Defendant’s compliance with the ICA pursuant to the
2 judgment.

3 **II. LEGAL STANDARD**

4 When authorized by contract, statute or law, reasonable attorney fees are “allowable
5 costs.” CCP § 1033.5(a)(10)(A), (B) & (C). *Santisas v. Goodin* (1998) 17 Cal. 4th 599, 606.
6 “Statutory attorney fees are ordinarily determined by courts pursuant to the ‘lodestar’ or
7 ‘touchstone’ method.” *Wedner, Fairbank & Epstein*, Cal. Prac. Guide Civ. Trials & Ev. (The
8 Rutter Guide 2017) Ch. 17-E § 17:153.2. This approach typically involves assessing a base
9 amount, i.e. the “lodestar,” based on a compilation of time reasonably spent and a reasonable
10 hourly compensation for the particular attorney- and then adjusting this amount in light of
11 various factors, including, *inter alia*, risk of non-compensation and public benefit. *Serrano v.*
12 *Priest* (“*Serrano III*”) (1977) 20 Cal. 3d 25, 48; *Serrano v. Unruh* (1982) 32 Cal. 3d 621, 639.
13 Although prevalent, the “lodestar” method is not mandated, and each attorney fee statute must be
14 construed on its own merits. *City of Santa Rosa v. Patel* (2010) 191 Cal. App. 4th 65, 67-71
15 (finding that lodestar method, as opposed to cost-plus approach based on attorneys’ salary costs
16 and overhead, was the proper method for calculating city’s attorney fees in successful red light
17 abatement action). However, where a statute is silent to the method, the lodestar method applies.
18 *Meister v. Regents of Univ. of Calif.* (1998) 67 Cal. App. 4th 437, 448-449. In the instant case, the
19 lodestar method is appropriate because the ICA is silent as to the method to be used. See Bus. &
20 Prof. Code § 22446.5(b).

21 For purposes of calculating the reasonable time spent on tasks, declarations by the
22 attorney, even if based on estimates, are sufficient. See e.g. *Chavez v. Netflix, Inc.* (2008) 162
23 Cal. App. 4th 43, 64. The reasonable hourly rate is the prevailing rate charged by attorneys of
24 similar skill and experience in the relevant community, including assessment of certain
25 enhancement factors such as the specific attorney’s skill and experience, the nature of the work
26 performed, and the relevant area of expertise and the attorney’s customary billing rates. *Flannery*
27 *v. California Highway Patrol* (1998) 61 Cal. App. 4th 629, 632-633; *Stratton v. Beck* (2017) 9
28 Cal. App. 5th 483, 496. After the above-two elements are computed, the total amount is then

1 enhanced based on various factors, including, *inter alia*, the novelty and difficulty of the
2 questions involved, the success achieved (including changes in company policy), the benefit to
3 the public, the risk of non-compensation as in *pro bono* and contingency cases, and the skill and
4 efficiency of the attorney. *Serrano III, supra*, 20 Cal. 3d at 49; *Amaral v. Cintas Corp. No. 2*
5 (2008) 163 Cal. App. 4th 1157, 1217-1218. The fees incurred in bringing a motion for fees and
6 defending a fee claim are expressly recoverable. *Serrano v. Priest (“Serrano IV”)* (1982) 32 Cal.
7 3d 621, 629.

8 **III. DISCUSSION**

9 As set forth in the attached declaration of Plaintiff’s attorney, incorporated by reference
10 herewith, Plaintiff is requesting a lodestar amount of \$49,250 based on 78.8 hours of services
11 reasonably performed at an hourly rate of \$500/hr. The hourly rate requested is reasonable in that
12 it is premised on the prevailing rate for attorneys practicing in a self-employed, partner, or senior
13 associate capacity for over five years in the City of Los Angeles and handling hundreds of cases,
14 including highly specialized cases such as this one. Decl. of Medvei, attached herewith, ¶¶4-9.
15 Further, the rate has been granted to Plaintiff’s attorney before. Plaintiff also requests a 1.25
16 enhancement based on the *pro bono* representation by Plaintiff’s attorney and advancement of
17 costs and public benefit attained by this judgment, including the fact that Defendant has agreed
18 to be permanently enjoined from future violations of the ICA, which is codified at the Business
19 and Professions Code Sections 22440, et seq.

20 *Ketchum v. Moses* (2001) 24 Cal. 4th 1122, 1138; *Bernardi v. County of Monterey* (2008)
21 167 Cal. App. 4th 1379, 1398-1399. As set forth in the declaration, the public is significantly
22 benefitted by the regulation of immigration consultants, *inter alia*, because their customers do
23 not have the benefit of the “ineffective assistance of counsel” defense when their immigration
24 proceedings are botched by the immigration consultant. Decl. of Medvei, ¶ 8, Therefore, Plaintiff
25 requests a total award of \$49,417.65.

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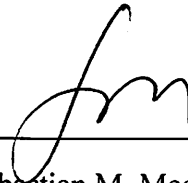
1 **IV. CONCLUSION**

2 Based on the foregoing, Plaintiff respectfully requests that the motion be granted as
3 prayed.

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5 Dated January 14, 2019

6 Respectfully Submitted,
7 MEDVEI LAW GROUP, APC

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9 By:



10 Sebastian M. Medvei
11 Attorney for Plaintiff
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1 consulted with me on an appropriate fee request, and have themselves attained fees equivalent to
2 or greater than what I am requesting from the Court on the instant motion. Based on my research
3 and contacts in the attorney community in Los Angeles, I have found that attorneys of similar
4 experience to myself, typically are able to obtain between \$480/hr to \$750/hr on motions for
5 attorney's fees in both state and federal courts. Thus, and pursuant to the fair market value of the
6 services of an attorney of similar experience to myself, I believe the prevailing rate to be \$500/hr
7 and request the same.

8 7. I have been awarded \$500/hr numerous times by court's reviewing my requests for
9 attorney's fees. By way of example only, in *Immigration Rights Defense Council, LLC v. The*
10 *Lord's Immigration Consulting Services*, BC596300, a case before the Central District on behalf
11 of the same Plaintiff, I was awarded attorney's fees at \$500/hr on a motion for fees after a
12 judgment was entered against that defendant.

13 8. In addition, I have significant expertise in handling both private attorney general actions
14 and victim-plaintiff actions under the ICA, having obtained large judgments and settlements for
15 victims under the ICA, and having prosecuted numerous illegally operating immigration
16 consultant businesses in conjunction with the Plaintiff herein. Prosecution of the ICA benefits the
17 public in that it prevents the inevitable outcome of unqualified legal advice, namely the
18 unwitting subjection of otherwise legal immigrants to deportation proceedings for botched
19 services. Unlike lawyers, services exceeding the scope of the ICA provided by immigration
20 consultants, such as improper legal advice or erroneously filed documents, *are not* subject to the
21 ineffective assistance of counsel defense that is normally applicable when an attorney commits
22 malpractice on an immigration case. Thus, even if an immigration consultant has otherwise not
23 intended to cause an immigrant to suffer devastating immigration consequences, a single piece of
24 mistaken advice can irreparably destroy an immigrant's right to be in this country, with little or
25 no recourse from the immigration consultant. This problem is compounded by the fact that
26 immigration consultants inevitably provide legal advice as a marketing incentive because
27 translation services are not in high demand for immigration forms, but still manage to charge less
28 than prevailing rates for attorneys, thus diverting business from skilled practitioners to persons

1 who, even if experienced or skilled in filling out forms, are not recognized by the federal
 2 government and thus, not subject to the ineffective assistance of counsel defense. Moreover,
 3 because of their vulnerability, the victims of illegally operating immigration consultants rarely
 4 come forward to law enforcement (violation of the ICA is a crime) and/or rarely prosecute their
 5 own actions for damages. I have seen firsthand the effects of the most well-intentioned
 6 immigration consultants exceeding the scope of their services and the ensuing difficulty of
 7 remediation for persons placed into deportation proceedings on account of these poorly executed
 8 services.

9 9. In connection with this case, a private attorney general action on behalf of the general
 10 public in which I represent Plaintiff *pro bono*, I engaged in or anticipate engaging in the
 11 following activities:

<u>Activity</u>	<u>Time Spent</u>
Investigation of Defendant prior to drafting complaint	8.0
Drafting the Complaint	1.0
Preparing case management statement	.5
Preparing written discovery requests	1.0
Preparing opposition to Order to Show Cause Why Cases Should not be Related and Transferred	4.0
Preparing Notice of Reassignment	.2
Preparing Notice of Case Management Conference	.2
Reviewed Defendant's Discovery Requests	1.0
Reviewed Defendant's Discovery Responses and Meet and Confer with Defendant's	2.0

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Counsel	
Drafting Motion to Compel Response to Request for Production of Documents, Set One, and Request for Sanctions and drafting reply and appearing at the hearing	5.0
Drafting Motion to Compel Response to Form Interrogatories, Set One, and Request for Sanctions and drafting reply and appearing at the hearing	5.0
Reviewed Defendant's Demurrer	1.0
Prepared First Amended Complaint	2.0
Prepared Response to Defendant's Discovery Requests	2.0
Correspondence with Defendant's Counsel	1.0
Reviewed Defendant's Request for Production of Documents, Set Two and Defendant's Special Interrogatories, Set Two	1.0
Reviewed Defendant's Three Motion to Compel	2.0
Reviewed Defendant's Amended Responses to Discovery	1.0
Prepared Opposition to Defendant's Motion to Compel Further Responses to Special Interrogatories, Set One, and Request for Sanctions for failure to Meet and Confer	5.8

1	Prepared Opposition to Defendant's Motion	5.8
2	to Compel Further Responses to Form	
3	Interrogatories, Set One, and Request for	
4	Sanctions for failure to Meet and Confer	
5	Prepared Opposition to Defendant's Motion	5.8
6	to Compel Further Responses to Request for	
7	Production, Set One, and Request for	
8	Sanctions for failure to Meet and Confer	
9	Review Defendant's Answer to Complaint	.5
10	Prepared Plaintiff's Response to Request for	1.0
11	Production of Documents, Set Two and	
12	Request for Special Interrogatories, Set Two	
13	Prepared Motion Pursuant to Section 128.7	9.8
14	of the Code of Civil Procedure to Strike	
15	Defendant's Answer and Affirmative	
16	Defenses, and Request for Sanctions	
17	Prepared Motion of Plaintiff to Compel	6.5
18	Compliance with Court's July 10 th Order	
19	Prepared Memorandum of Costs	.3
20	Prepared Notice of Entry of Judgment	.2
21	Meet and Confer and case correspondence	3.0
22	with Defendant's Counsel	
23	Negotiated, prepared stipulation for entry of	1.0
24	judgment in this action, and the proposed	
25	judgment	
26	Drafted present Motion for Attorney's Fees	4.0
27	Review and response to opposition of	2.0
28		

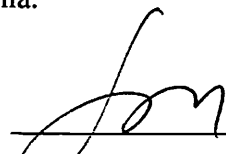
motion for attorney's fees if any	
Appear at anticipated hearing on the motion	1.0
	Total: 78.8 hours

10. Therefore, Plaintiff requests a grand total of attorney's fees of \$39,400.

11. Based on all of the foregoing, Plaintiff requests a 1.25 lodestar enhancement amounting to \$49,250, plus the \$60 motion fee, \$9.95 Efiling fee, \$1,95 Convenience Fee, \$1.75 Court Transaction Fee, and \$94 CourtCall fee, amounting to a grand total of \$49,417.65

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

Executed January 14, 2019 at Los Angeles, California.



Sebastian M. Medvei

1 **PROOF OF SERVICE**

2
3 STATE OF CALIFORNIA)
4 COUNTY OF LOS ANGELES)

5 I am employed in the County of Los Angeles, State of California, I am over the age of 18
6 and not a party to the within action; my business address is 3055 Wilshire Blvd., Suite 900, Los
7 Angeles, CA 90010. On the date of execution below, I served on the interested parties in this
8 action, the foregoing documents described as:

9 **NOTICE OF MOTION AND MOTION OF IMMIGRANT RIGHTS DEFENSE
10 COUNCIL, LLC, FOR ATTORNEY’S FEES; MEMORANDUM IN SUPPORT
11 THEREOF; DECLARATION OF SEBASTIAN M. MEDVEI**

12 by placing a true copy thereof enclosed in a sealed envelope, with postage prepaid,
13 addressed as follows:

14 Tony Forberg, Esq.
15 16501 Ventura Blvd. Ste 400
16 Encino, CA 91436

17 (BY MAIL) I am “readily familiar” with the firm’s practice of collection and processing
18 correspondence for mailing. Under that practice it would be deposited with the U.S.
19 postal service on that same day with postage thereon fully prepaid at Los Angeles,
20 California in the ordinary course of business. I am aware that on motion of the party
21 service, service is presumed invalid if postal cancellation date or postage meter date is
22 more than one day after date of deposit for mailing in the affidavit.

23 (PERSONAL SERVICE) I delivered such envelope by hand to the office of the addressee

24 (BY FACSIMILE TRANSMISSION) I caused such document to be sent by Facsimile
25 Transmission to the addressee

26 I declare that I am employed in the office of a member of the board of this Court at
27 whose direction service was made.

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

Executed on January 15, 2019, at Los Angeles, California.

29 
Sebastian Medvei