

Zack Duffly (OR SBN 143109)
zack@pcrlo.org
PORTLAND CIVIL RIGHTS LAW OFFICE
PO Box 82544
Portland, OR 97282
(503) 893-4360

Linda M. Dardarian (CA SBN 131001)*
ldardarian@gbdhlegal.com
Katharine L. Fisher (CA Bar No.305413)*
kfisher@gbdhlegal.com
Ginger L. Grimes (CA SBN 307168)*
ggrimes@gbdhlegal.com
GOLDSTEIN, BORGEN, DARDARIAN & HO
300 Lakeside Drive, Suite 1000
Oakland, CA 94612
Tel: (510) 763-9800
Fax: (510) 835-1417

Timothy Fox (CO SBN 25889)*
tfox@creeclaw.org
CIVIL RIGHTS EDUCATION AND
ENFORCEMENT CENTER
104 Broadway, Suite 400
Denver, CO 80203
(303) 757-7901

Attorneys for Plaintiffs
* Admitted *pro hac vice*

**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION**

ALLEN HINES, TESS RAUNIG, and
CAROLEZOOM, on behalf of themselves and
all others similarly situated,

Plaintiffs,

vs.

CITY OF PORTLAND,

Defendant.

Case No.: 3:18-cv-00869-HZ

**DECLARATION OF ZACK DUFFLY IN
SUPPORT OF PLAINTIFFS' MOTION
FOR AN AWARD OF REASONABLE
ATTORNEYS' FEES, COSTS, AND
EXPENSES**

A. I, Zack Duffly, declare as follows:

1. I am a member in good standing of the Bar of the State of Oregon and the founding attorney of the Portland Civil Rights Law Office (“PCRLO”), located in Portland, Oregon. I am co-counsel for Plaintiffs and have been appointed Class Counsel in this action. I am providing this declaration to support Plaintiffs’ Motion for an Award of Reasonable Attorneys’ Fees, Costs, and Expenses. I have personal knowledge of the facts set forth in this declaration and could and would testify competently to them.

2. I am a 2011 graduate of Berkeley Law School (formerly Boalt Hall School of Law at the University of California, Berkeley). I have been a member of the Oregon State Bar since 2014 and am admitted to practice in the United States District Court for the District of Oregon.

3. Following law school, I received a grant from the Initiative for Public Interest Law at Yale to work at Disability Rights Advocates (“DRA”), a nationally prominent civil rights impact litigation firm with offices in New York City and Berkeley, California. My work at DRA focused on implementing class action settlements between private and public entities and people with mobility and sensory impairments.

4. While at DRA, I was responsible for various aspects of class action disability rights litigation, including pre-filing investigation, drafting primary pleadings, attending settlement negotiations, and implementing and monitoring settlement agreements.

5. From 2011 to 2012, I investigated systemic access barriers faced by people with disabilities throughout the Kaiser Permanente health care system in California. Based on this investigation, I drafted a class action complaint for federal district court. In 2012, the parties elected to enter structured negotiations to address the barriers identified. These negotiations

resulted in a comprehensive, systemic settlement to ensure that Kaiser Permanente's blind and low vision patients throughout California have access to patient care information and services through the provision of talking pill bottles; braille, large print, audio, and other alternative formats for patient specific and general medical forms and documents; accessible website and mobile applications; training staff on provision of services to patients with visual impairments; and removal or architectural barriers affecting blind patients. Linda Dardarian of Goldstein, Borgen, Dardarian & Ho ("GBDH")—co-counsel in the instant action—served as co-counsel with DRA in the structured negotiations with Kaiser Permanente.

6. While at DRA, I also assisted in the investigation and pre-filing phases of litigation that resulted in other significant class action settlements on behalf of people with disabilities, *see, e.g., United Spinal Assoc'n et al. v. Beth Israel Medical Center et al.*, 1:13-cv-05131 (comprehensive settlement agreement remediating architectural, technological, communication, and policy barriers to access at four prominent New York health care facilities), as well as litigation regarding the public right of way, *see American Council of the Blind of New York, Inc. v. The City of New York*, 1:18-cv-05792 (currently active class action alleging violation of federal law by New York City for failure to systematically implement audible and tactile pedestrian signals to make its pedestrian routes equally accessible to people who are blind, deaf-blind, or low vision).

7. I also have experience implementing and monitoring successfully negotiated disability rights class action settlements. During my time at DRA, I collaborated with current co-counsel Linda Dardarian in monitoring the implementation of a negotiated settlement with the Sutter Health chain of hospitals. *See Olson v. Sutter Health*, Case No. RG06-302354 (Alameda County Superior Court). Specifically, I assisted in monitoring Sutter Health's remediation of

identified architectural barriers, the installation of accessible medical equipment, and the development of policies and procedures to ensure accessible services.

8. After working at Disability Rights Advocates, I served as a judicial law clerk to the Honorable Lynn R. Nakamoto, then of the Oregon Court of Appeals (2013-2015), and the Honorable Michael H. Simon of the United States District Court for the District of Oregon (2016-2017). As a judicial clerk, my work involved assisting in the analysis and disposition of complex civil litigation.

9. From 2015 to 2016, I worked as an Associate Attorney at Janet Hoffman & Associates, a private criminal defense firm in Portland, Oregon, where I worked primarily with a team of attorneys representing a former government executive facing possible misuse of public office charges.

BACKGROUND AND EXPERIENCE OF THE PORTLAND CIVIL RIGHTS LAW OFFICE (PCRLO)

10. In 2017, I founded the Portland Civil Rights Law Office, a community-centered nonprofit law firm. PCRLO's mission is to advance and defend the civil rights of underrepresented Oregonians through the provision of free and low-cost legal aid and representation. The bulk of PCRLO's cases are disability rights actions. In addition to disability rights, PCRLO's practice areas include fair housing and landlord-tenant law, employment discrimination, public benefits, and domestic violence survivor's rights. PCRLO represents individuals in state and federal court in several counties in Oregon. This is PCRLO's first class action.

PCRLO'S REASONABLE TIME SPENT ON THIS MATTER AND NATURE OF ITS REPRESENTATION OF THE PLAINTIFF CLASS

11. I have been involved in this case since joining Linda Dardarian of Goldstein, Borgen, Dardarian & Ho ("GBDH") and Timothy Fox of the Civil Rights Education and

Enforcement Center (“CREEC”) as co-counsel on November 21, 2017. I am the sole attorney from PCRLO working on this matter. I assisted co-counsel with coordinating litigation and settlement strategy. I also participated in the finalization of negotiations with the City that resulted in the Consent Decree that this Court preliminarily approved on June 4, 2018. *See* ECF 25.

12. PCRLO’s representation of the Plaintiff Class was on a wholly contingent basis. PCRLO has received no payment for the 19 hours of services it has performed or for the costs and expenses committed to the negotiation and settlement of this matter.

13. PCRLO maintains contemporaneous time records reflecting the time spent on this and other matters. Those records indicate the date and amount of time spent on a task to one-tenth of an hour; describe the work that was performed during the indicated time period; and identify the case to which the time should be charged. PCRLO has kept contemporaneous records documenting in detail the amount of time spent on this matter in units of 0.1 of an hour. Those records are available for the Court to review should the Court wish to, and I will provide them to the Court for inspection if requested.

14. I have made every effort to work on this matter efficiently and have exercised billing judgment to account for any excess, redundant, or unreasonably duplicative time.

15. The hours for which PCRLO has billed were appropriately and necessarily spent on the firm’s assigned tasks and projects. The detailed time records for the hours spent by myself and billed to this case from November 21, 2017—the effective date of the co-counsel agreement between PCRLO, GBDH, and CREEC—through the present, amount to a total of 19 hours.

16. A true and correct summary of PCRLO’s time on the matter, prepared from PCRLO’s contemporaneous time records, is attached hereto as Exhibit A.

17. This figure does not include time that PCRLO will continue to incur to see this case through the final approval of the Consent Decree, including responding to class member inquiries prior to the final approval hearing, helping prepare the motion for final approval, and attending the fairness hearing on September 24, 2018. Those hours will not be separately compensated.

18. My time was focused primarily on case coordination with co-counsel, reviewing and editing aspects of initial pleadings, and filing electronic and required hard copies of all initial pleadings with this Court.

PCRLO'S REASONABLE HOURLY RATES

19. PCRLO's hourly rate is established based on the prevailing market rates for attorneys in the Portland/Tri-County region as reported in the Oregon State Bar's 2017 Economic Survey Report of Findings, *see* Oregon State Bar 2017 Economic Survey: Report of Findings ("OSB 2017 Survey"), as well as from other attorneys in the area that have similar experience doing similar work, and in orders awarding attorney's fees in similar cases.

20. The majority of PCRLO's practice is contingent. PCRLO's requested hourly rate is similar to the rates in the OSB 2017 Survey, particularly given two years of inflation.

21. PCRLO's requested hourly rate falls towards the higher end of the spectrum of hourly rates in Portland, which is justified in this case by expertise litigating disability access cases, including large-scale settlements with public entities, and the lack of adequately local trained attorneys willing to take on this work.

22. Using PCRLO's hourly rates, multiplied by the 19 hours PCRLO has reasonably spent on this matter through July 13, 2018, PCRLO's reasonable lodestar in this matter is \$6,523.00.

REASONABLE COSTS AND EXPENSES

23. PCRLO is seeking reimbursement of its reasonable out-of-pocket costs and expenses incurred in this matter.

24. These items are billed separately and are not included in PCRLO's lodestar. PCRLO's total costs and expenses in this matter through July 13, 2018 come to \$11.33. These costs and expenses were necessarily and reasonably incurred in this case in the course of filing hard copies of case documents as required by Judge Hernandez. A true and correct summary of my firm's costs and expenses is attached hereto as Exhibit A.

I declare under penalty of perjury under the laws of the United States and the State of Oregon that the foregoing is true and correct, and that this Declaration was executed this 23rd day of July 2018, in Portland, Oregon.

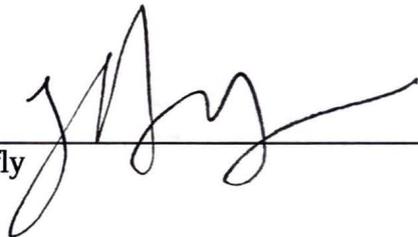
Zack Duffly 

EXHIBIT A

Summary

1. The following table summarizes PCRLO's time spent on this matter, after the exercise of billing judgment:

Timekeeper	Nature of Work	Number of hours worked on this case	Rate	Lodestar
Zack Duffly	Attorney	16.20	\$375.00	\$6,075.00
	Paralegal	2.80	\$160.00	\$448.00
Total				\$6,523.00

2. In addition, the costs for which PCRLO seeks reimbursement total \$11.33.