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10 (Former) Attorneys for Defendants

11 **SUPERIOR COURT OF ARIZONA**
12 **MARICOPA COUNTY**

13 R. L. WHITMER,

14 Plaintiff,

15 vs.

16 HILTON CASITAS HOMEOWNERS
17 ASSOCIATION, also known as HILTON
18 CASITAS COUNCIL OF HOMEOWNERS,
19 also known as COUNCIL OF CO-OWNERS
20 also known as HILTON CASITAS
21 COUNCIL OF CO-OWNERS, and
22 MICHAEL BENGSON, President of the
23 Respondent.

24 Defendants.

Case No.: CV2016-055080

**DECLARATION OF
PAIGE A. MARTIN
IN SUPPORT OF
DEFENDANTS' MOTION FOR
AWARD OF ATTORNEYS' FEES**

(Assigned to Honorable Aimee Anderson)

25 1. I am one of the attorneys who represented Defendants Hilton Casitas
26 Homeowners Association (and the various "also known as" entities listed in the caption)
27 and Michael Bengson (jointly referred to as the "Association") in the above-referenced
28 matter.

1 2. I have been licensed to practice law in the State of Arizona since October
2 27, 1990. I have worked in litigation during all the years of my practice.

3 3. I spent 10 years as an attorney at Kutak Rock LLP, before I joined Clark
4 Hill PLC as Senior Counsel on August 1, 2016. At Kutak Rock, I was a partner from
5 2008 until my departure in 2016. My hourly rate when I left Kutak Rock was \$400 per

1 hour for private clients and ranged from \$300 to \$350 per hour for government clients.

2 4. This declaration is based upon personal knowledge acquired through
3 representation of the Association and from my personal experience over the last 26 years
4 in litigation.

5 5. This declaration is also based upon document to which I have access and
6 which I have reviewed, including timekeeping and billing records of Clark Hill PLC,
7 which are kept in the ordinary course of our business by persons whose job it is to keep
8 those records, based on entries made into the computer system of our firm at or near the
9 time the work was done.

10 6. The fee agreement with the Association is as follows: The amount of each
11 invoice is determined by multiplying time spent in rendering legal services by an hourly
12 rate applicable to the lawyer or paralegal involved. Payment is due on the submission of
13 the invoices.

14 7. I charged the Association a rate of \$335.00 per hour. This hourly rate is at
15 the low end of the range of hourly rates typical for an attorney of my background and
16 experience, practicing at a national firm in the Phoenix metropolitan area.

17 8. Attorney Robert G. Anderson also performed work on this matter. Mr.
18 Anderson has been licensed to practice law in Arizona since April 30, 1977. I have
19 known Mr. Anderson since June of 2004, when I worked at his former law firm with him.
20 He charged the Association a rate of \$355 per hour. This hourly rate is at the low end of
21 hourly rates typical for an attorney of his background and experience, practicing at a
22 national firm in the Phoenix metropolitan area.

23 9. According to the State Bar of Arizona's 2016 Salary and Economic Survey,
24 the median hourly rate for attorneys in Arizona is \$302 for attorneys licensed 20-29 years
25 and \$320 for attorneys licensed 30-39 years. These figures are without regard to
26 geographic location or whether the attorney is at a solo practice or a law firm. *See*
27 **Exhibit A.**

28 10. Paralegal Andréa Padinha also performed work on this matter. She

1 received an A.S. in Paralegal Studies, *summa cum laude*, from Florida Metropolitan
2 University in 2007. Ms. Padinha is an Advanced Certified Paralegal and Certified
3 eDiscovery Specialist. She charged the Association a rate of \$170 per hour.

4 11. Attached as Exhibit B is a summary of the amounts billed to the
5 Association for services rendered in this matter. Exhibit B accurately reflects the date
6 each service was performed, the name of the individual performing the services, the time
7 incurred in performing it, and describes the legal services rendered. Exhibit B is
8 generated from a computer database into which the billing personal have recorded the
9 stated information. This information is inputted into the computer database at or near the
10 time the legal services were rendered, and that information has been maintained in this
11 firm's records pursuant to its ordinary business practices.

12 12. Exhibit B reflects that 25.2 hours were expended in bringing and
13 maintaining this matter, bringing the total amount of attorneys' fees to \$8,051.50.

14 13. Based upon my experience as an attorney at Clark Hill PLC and Kutak
15 Rock LLP, as well as other local law firms, during my years of practice, I have the
16 personal knowledge sufficient to express an opinion on whether the legal services noted
17 on the attached summary were necessarily incurred for the proper representation of the
18 Association in connection with this matter. Based upon my experience, my knowledge of
19 comparable cases, and my knowledge of the services provided, it is my opinion that the
20 legal services noted on Exhibit B were necessarily rendered for the proper representation
21 of the Association in this matter.

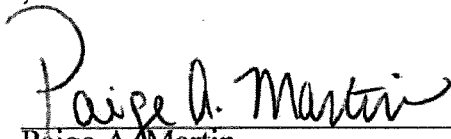
22 14. Because of my experience as a lawyer, which includes negotiating fee
23 arrangements with clients and reviewing fee applications in other cases, I have the
24 personal knowledge sufficient to express an opinion as to whether the following were
25 reasonable: (1) the hourly rates charged, (2) the hours incurred and (3) the total fee.
26 Based upon my experience, my knowledge of comparable cases, and my knowledge of
27 the services provided, it is my opinion that the hourly rates charged, the hours incurred
28

1 and the total fee were reasonable for the proper representation of the Association in this
2 matter.

3 15. Clark Hill does not charge clients for legal research on Lexis, which is
4 subsumed into overhead.

5 I declare under penalty of perjury that the foregoing is true and correct.

6 EXECUTED this 12th day of April, 2017.

7
8 
9 Paige A. Martin

10 Copy of the foregoing mailed
11 this 14 day of April, 2017 to:

12 R. L. Whitmer
13 6333 North Scottsdale Road, Casita 21
14 Scottsdale, AZ 85250
15 *Plaintiff Pro Per*

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By 

EXHIBIT A



6 ECONOMICS OF LAW PRACTICE IN ARIZONA

ATTORNEY COMPENSATION > HOURLY BILLING

FINDINGS
About Their Work

**Typical Hourly Rate by
Number of Years Licensed and Primary Practice Area**

What is your typical hourly rate?

	TOTAL	NUMBER OF YEARS LICENSED									
		<5	5-9	10-14	15-19	20-24	25-29	30-34	35-39	40+	
median hourly rate	\$275	\$226	\$255	\$279	\$286	\$302	\$320	\$350			
		PRIMARY PRACTICE AREA									
		litigation	criminal	defense	corporate	real estate	banking/finance	tax/estate	personal injury	litigation	banking/finance
median hourly rate	\$275	\$257	\$259	\$266	\$274	\$289	\$299	\$312			
		PRINCIPAL OFFICE LOCATION									
		Phoenix	Yavapai	Yuma	Pima	Maricopa	other	INSIDE AZ			
median hourly rate	\$275	\$200	\$225	\$271	\$282	\$250					

= \$260 - \$279
 = \$280 - \$299
 = \$300+

base: 1,335 respondents whose SBA status is active or over 70 as of 12/31/2008 and who are employed as attorneys in private law practices; those in each segment

EXHIBIT B

CLARK HILL PLC

<u>Date</u>	<u>Name / Invoice Number</u>	<u>Hours</u>	<u>Amount</u>	<u>Description</u>
1/3/2017	Robert G. Anderson	0.8	\$284.00	Telephone call from M. Bengson regarding Order to Show Cause.
1/11/2017	Robert G. Anderson	2.2	\$781.00	Prepare answer to Whitmer Compliant.
1/18/2017	Robert G. Anderson	2	\$710.00	Review Exhibits to Complaint (.5); review and revise answer to Compliant (.7); meeting with M. Bengson regarding answer (.5); prepare request for continuance of hearing (.3).
1/23/2017	Robert G. Anderson	0.3	\$106.50	Telephone call to M. Bengson regarding affidavit for hearing.
1/25/2017	Robert G. Anderson	2.1	\$745.50	Review Complaint; review 2014 Administrative Order; review 2016 Annual Meeting documents; prepare affidavit for M. Bengson.
1/26/2017	Robert G. Anderson	1.5	\$532.50	Review and revise affidavit of M. Bengson; prepare exhibits; telephone call to M. Bengson regarding Affidavit.
1/27/2017	Robert G. Anderson	1.8	\$639.00	Meeting with M. Bengson regarding hearing and affidavit; revise affidavit; attend hearing.
2/9/2017	Paige A. Martin	0.2	\$67.00	Prepare notice of appearance.
2/14/2017	Paige A. Martin	0.2	\$67.00	Meeting with R. Anderson regarding case status.
2/15/2017	Robert G. Anderson	0.3	\$106.50	Telephone call from M. Bengson regarding subpoenas of Board Members; hearing in Superior Court.
2/15/2017	Paige A. Martin	0.3	\$100.50	Meeting with R. Anderson regarding case background.
2/16/2017	Andrea L. Padinha	1.8	\$306.00	Review and analyze documents for inclusion on Exhibit List for upcoming Evidentiary Hearing (.80); prepare Exhibit List for upcoming Evidentiary Hearing (.40); begin preparation of Exhibits for upcoming Evidentiary Hearing (60).
2/16/2017	Paige A. Martin	3	\$1,005.00	Meeting with A. Padinha regarding exhibits, review file to determine what exhibits should be listed.
2/17/2017	Andrea L. Padinha	1.7	\$289.00	Teleconference with Judge Anderson's chambers regarding Exhibit Marking (.10); prepare correspondence to Pro Per Plaintiff regarding Plaintiff's Exhibit List for upcoming Evidentiary Hearing (.10); review and analyze Plaintiff's Exhibit List for upcoming

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Evidentiary Hearing (.30); revise Defendants' Exhibit List of upcoming Evidentiary Hearing (.20); revise and finalize exhibits for upcoming Evidentiary Hearing (.40); attend Exhibit Marking with Clerk for Judge Anderson (.70).

2/17/2017 Paige A. Martin	4	\$1,340.00	Prepare exhibit list, review opposing party's list of exhibits, prepare motion for substitution of counsel, exchange multiple correspondence with new counsel and with opposing party regarding exhibit lists and substitution.
2/24/2017 Andrea L. Padinha	0.2	\$34.00	Prepare correspondence to N. Payne at Shaw and Lines, LLC regarding Plaintiff's Evidentiary Hearing Memo.
3/21/2017 Paige A. Martin	0.2	\$67.00	Review correspondence and telephone conference with N. Payne regarding attorneys' fees and costs after motion to dismiss ruling, and forward same to R. Anderson.
4/5/2017 Paige A. Martin	0.2	\$67.00	Exchange correspondence with N. Payne and R. Anderson regarding attorneys' fees application.
4/6/2017 Paige A. Martin	0.3	\$100.50	Review correspondence from N. Payne regarding attorneys' fees application (.10); review invoices forwarded by R. Anderson (.10); exchange correspondence with R. Anderson regarding additional invoices (.10).
4/11/2017 Paige A. Martin	0.1	\$33.50	Meeting with C. Kemper regarding materials for affidavit of attorneys' fees and costs (.10); prepare correspondence to N. Payne regarding same (n/c).
4/12/2017 Paige A. Martin	2	\$670.00	Prepare declaration regarding attorneys' fees and statement of costs
TOTALS: BILL:	25.2	\$8,051.50	