

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION**

CYNTHIA B. SCOTT, *et al.*,)
)
 Plaintiffs,)
)
 v.)
)
HAROLD W. CLARKE, *et al.*,)
)
 Defendants.)
_____)

Case No. 3:12-cv-00036-NKM
Sr. Judge Norman K. Moon

DECLARATION OF THEODORE A. HOWARD

Theodore A. Howard, of the age of majority, hereby declares as follows:

1. I am a partner in the Washington, DC law firm of Wiley Rein LLP, which serves as pro bono counsel to the Plaintiffs in this action.

2. I submit this Declaration in support of Plaintiffs’ Petition for Award of Attorneys’ Fees and Litigation Costs Pursuant to 42 U.S.C. § 1988 and supporting Memorandum of Law. Except to the extent otherwise expressly indicated, I have personal knowledge of the matters set forth in this Declaration and, if called upon, believe I would be found competent to testify hereto.

I. WILEY REIN’S REASONABLE HOURLY RATES AND HOURS INCURRED

3. In seeking a fee award, a required element of the applicant’s proof involves demonstration to the Court’s satisfaction that the hourly rates charged by counsel for which recovery is sought are reasonable in light of the experience, skill and reputation of its counsel. *See generally Blum v. Stenson*, 465 U.S. 886, 895 n.11 (1984); *Covington v. District of Columbia*, 57 F.3d 1101, 1108 (D.C. Cir. 1995).

4. I graduated from Harvard Law School in 1981, and have been engaged consistently since then in the private practice of law in Washington, DC, concentrating on involvement in complex civil litigation matters in federal and state courts, both locally and on a

nationwide basis. I am a member of the District of Columbia Bar and have been admitted to practice before the Supreme Court of the United States, the United States Courts of Appeals for the Fourth, Fifth, Eighth, Ninth, Eleventh and District of Columbia Circuits, the United States Court of Federal Claims and the United States District Court for the District of Columbia.

5. Between 1986 and 2014, the principal focus of my practice involved the counseling and representation of international and domestic property/casualty and professional liability insurance companies with respect to complex insurance coverage disputes and related litigation matters. I served as a Co-Chair of the American Bar Association, Section of Litigation, Insurance Coverage Litigation Committee's annual Continuing Legal Education Conference, and am Co-Author of a leading two-volume treatise, *The Practitioner's Guide to Litigating Insurance Coverage Actions* (Aspen/Wolters Kluwer Law & Bus. Publications, 2d ed.). My competency as an insurance practitioner was recognized (at various times) by my inclusion in "Best Lawyers In America," "America's Leading Lawyers for Business" (Chambers Publications), D.C. Superlawyers (Law & Politics Publications) and *The International Who's Who in Insurance and Reinsurance*, and I was a Fellow of the American College of Coverage and Extracontractual Counsel.

6. Beginning in 1989, and on a nearly continuous basis since then, a significant part of my legal practice has involved the pro bono representation of incarcerated individuals seeking to challenge the constitutionality of various conditions of confinement pursuant to actions brought in the federal courts under 42 U.S.C. § 1983. In addition to this hands-on litigation involvement, I served on the Board of Directors of a non-profit legal services organization, the D.C. Prisoners Legal Services Project, Inc., from 1992 to 2006, including as Chair of that Board from 1995 to 2006. The Prisoners' Project devoted its activities exclusively to public advocacy

and impact litigation aimed at improving conditions of confinement for incarcerated District of Columbia Code offenders. Since 2006, following the merger of the D.C. Prisoners' Legal Services Project with the Washington Lawyers' Committee for Civil Rights and Urban Affairs (WLC), I have served on the Board of Directors of the WLC, another legal services organization devoting attention to broad impact prisoners' rights litigation matters. From 2011 to 2014, I served a three-year term as Co-Chair of the WLC's Board. As a result of these activities, I believe I have experience and expertise with respect to civil rights litigation on behalf of prisoners comparable to any fulltime private-sector practitioner in the District of Columbia, if not nationally.

7. In November 2008, I was contacted by Phil Fornaci, the Project Director for the Prisoners' Project at the WLC, concerning a possible new litigation matter involving a challenge to the adequacy of the medical care being provided to the prisoners residing at the Fluvanna Correctional Center for Women (FCCW), a facility of the Virginia Department of Corrections (VDOC). The matter had been brought to the WLC by attorneys at the Legal Aid Justice Center in Charlottesville, VA (LAJC), who requested advice and assistance from the WLC and referral to a Washington, D.C. law firm with the resources, expertise and willingness to handle the case on a pro bono basis.

8. I expressed an interest in the matter and a meeting was arranged and scheduled for December 17, 2008. Following that meeting with representatives of the LAJC and WLC, I obtained authorization from this Firm's Management Committee to participate as co-counsel with the two organizations.

9. Thereafter I recruited and enlisted the assistance of a group of junior and mid-level associate attorneys who were interested to participate in the case. These associates

conducted preliminary legal research with respect to a host of subjects such as jurisdiction and venue, class action practice and procedure in the Fourth Circuit, Section 1983 elements in the Eighth Amendment medical care context, the extent to which the presence and involvement of a private, for-profit medical care contractor providing services on behalf of the State might affect the liability analysis, and related matters.

10. A number of the associates also committed to participate, along with attorneys from the LAJC and the WLC, in the factual investigation required in order to determine whether a good-faith basis for demanding reforms from the VDOC and/or commencing litigation existed. These associates made numerous visits to FCCW to participate in interviews of residents regarding their medical ailments and problems and their experiences with respect to the medical care afforded by the Prison. Detailed written summaries of each interview were prepared, privacy waivers with respect to medical records were obtained, FOIA requests for medical records were prepared and submitted, and medical records were obtained and reviewed as elements of the pre-litigation investigation.

11. As the information yielded by the investigation efforts undertaken by our attorneys and the LAJC and WLC indicated that grounds to pursue class action litigation existed, I began work on the drafting of a Class Action Complaint for Declaratory Judgment in June 2010. Due to a host of substantive complications and procedural impediments, the Plaintiffs served the VDOC and its private medical care contractor, Armor Correctional Health Services, Inc. (Armor) with Demand Letters prepared by the LAJC seeking settlement negotiations in July 2012. When no responses to the letters were received, the Complaint was filed and the case initiated on July 24, 2012.

12. Following the filing of the Complaint, this Firm's attorneys and legal support staff, subject to my direction and supervision, have been fully engaged and immersed in all aspects of this litigation, up to the present. The Firm's services to the Plaintiffs have included:

- In-depth legal research and analysis with respect to a host of preliminary issues;
- Preparing an Opposition to the VDOC's Motion to Dismiss and presenting argument on the Motion;
- Preparing a response to a threatened Motion for Sanctions under Fed. R. Civ. P. 11, based on unfounded contentions by Armor that the Complaint contained a "myriad of facts that [are] blatantly erroneous;
- Participating in all aspects of the extensive offensive and defensive discovery conducted in the case;
- Preparing the Plaintiffs' First and Second Amended Complaints;
- Negotiating the resolution of numerous discovery disputes and preparing and presenting argument on a discovery dispute with the VDOC Defendants that could not be resolved;
- Serving as the repository for all discovery documents produced in the case by both Plaintiffs and Defendants;
- Interacting directly with the Plaintiffs' Medical Expert in the preparation of his three Reports;
- Assisting with the preparation of the Plaintiffs' Motion for Class Certification;
- Preparing and presenting argument on the Plaintiffs' Motion for Partial Summary Judgment and in opposition to the VDOC Defendants' Motion for Summary Judgment;
- Actively participating in the development and implementation of all aspects of the Plaintiffs' general litigation, discovery and trial preparation strategy;
- Preparation to serve as lead counsel for the Plaintiffs at trial;
- Taking a lead role in the parties' settlement negotiations on the Plaintiffs' behalf, drafting the Settlement Agreement and working collaboratively with the VDOC Defendants' counsel and representatives

in overseeing the implementation of the parties' agreements embodied in their Settlement; and

- Preparing the Plaintiffs' Attorneys' Fees Petition and supporting Memorandum.

13. Wiley Rein's participation as pro bono counsel for the Plaintiffs in this matter has been a major undertaking for the Firm. Its Detailed Billing Record for the case, current through October 11, 2015, attached hereto as Exhibit 1, reflects total fees in the amount of \$2,826,385.00 and total expenses in the amount of \$130,973.79. A total of 66 timekeepers, including partners, associates, summer associates, paralegals, law clerks, litigation support personnel, and library staff recorded time on the case; some 39 of those timekeepers devoted 10 hours or more to this matter.

14. Despite the significant value provided by all of those who contributed their time and efforts to the Firm's successful and rewarding participation in the litigation, based upon an exercise of the sound, good-faith "billing judgment" that is expected by the federal courts in cases of this sort, I have determined that the portion of the Plaintiff's Fee Petition seeking recovery of fees incurred on the basis of their counsel's efforts that is based on Wiley Rein's work should be based on the work of thirteen attorneys, two paralegals and one litigation support person. Each of these individuals, and their contributions, are described below.

15. Timothy Duree, a graduate of the University of Texas Law School, joined the Firm as a fulltime Associate in September 2008. Mr. Duree conducted extensive and important legal research on threshold legal issues in the early stages of the Firm's involvement in the case and was a key participant in the pre-suit investigating, including multiple trips to FCCW to conduct interviews of prospective plaintiffs and witnesses. During the time of Mr. Duree's involvement in the case, his standard Firm hourly rate ranged from \$285.00/hr. to \$345.00/hr. He billed a total of 101.25 hours to the case, worth \$30,851.25. Upon the application of billing

judgment, the Plaintiffs seek recovery for 92.75 hrs. of Mr. Duree's time, with a value under the PLRA capped rate of \$211.50/hr., of \$19,616.62.

16. Laura El-Sabaawi, a graduate of Georgetown Law School, joined the Firm as a fulltime Associate in September 2009. Ms. El-Sabaawi assisted with the pre-suit investigation, visiting FCCW and interviewing prospective plaintiffs and witnesses. She also participated extensively in the review and analysis of documents produced by the Defendants in response to the Plaintiffs' discovery requests to assist with the marshalling of facts needed to successfully advocate on the Plaintiffs' behalf with respect to substantive issues in the case. Ms. El-Sabaawi's standard Firm hourly rate while working on the case has ranged from \$295.00/hr. to \$515.00/hr. She billed a total of 101.25 hours to the case, worth \$30,915.00. Upon the application of billing judgment, the Plaintiffs seek recovery for 98.25 hours of Ms. El-Sabaawi's time, with a value under the PLRA capped rate of \$211.50/hr., of \$20,779.97.

17. Staci Gonsalves, a graduate of Howard University Law School, joined the Firm as a fulltime Associate in October 2012. Ms. Gonsalves participated extensively in the review and analysis of the Plaintiffs' Medical Records to determine their responsiveness to the Defendants' discovery requests, as well as the documents produced by the Defendants in response to the Plaintiffs' discovery requests to assist in marshalling the facts needed to successful advocate on the Plaintiffs' behalf with respect to substantive issues in the case. Ms. Gonsalves' standard Firm hourly rate during the time of her participation in the case ranged from \$320.00/hr. to \$400.00/hr. She billed a total of 80.00 hours to the case, worth \$29,400.00. Plaintiffs seek recovery for all of Ms. Gonsalves' time, with a value under the PLRA capped rate of \$211.50/hr., of \$16,920.00.

18. Michael Gridley, a graduate of George Washington University Law School, joined the Firm as an Associate in September 2006. As the Senior Associate on the case, Mike coordinated and oversaw all of the Firm's activities relating to document management, working closely with our paralegals and litigation support to maintain our "Extranet" Site accessible to all Plaintiffs' counsel, organize Plaintiffs' responsive documents in preparation for production and make sure they were reviewed for privilege, prepare privilege logs, create subject-matter appropriate databases of Defendants' discovery documents, create witness files to assist with preparation for depositions, and the like. He also participated extensively in the review and analysis of the Plaintiffs' Medical Records and the Defendants' documents produced in response to the Plaintiffs' discovery requests and provided support to me in negotiating resolutions of discovery disputes. Mr. Gridley's standard Firm hourly rate while working on the case has ranged from \$530.00/hr. to \$555.00/hr. He has billed a total of 177.50 hours to the case, worth \$97,150.00. Plaintiffs' seek recovery for all of Mr. Gridley's time, with a value under the PLRA capped rate of \$211.50/hr., of \$37,541.25.

19. I joined the Firm as a partner in February 2001. In June 2014, I accepted an appointment to become the Firm's first fulltime Pro Bono Partner and disengaged from my involvement and participation in the Firm's Insurance Practice Group thereafter. I have been fully engaged in all aspects of this litigation on the Plaintiffs' behalf, effectively serving as their lead counsel in this matter. During the period of my involvement in the case, my standard Firm hourly rate has ranged from \$515.00/hr. to \$685.00/hr. I have billed a total of 3,241.50 hours to the case, worth \$2,052,915. Subtracting from the total hours the time already valued by this Court attributable to the briefing and argument of the Plaintiffs' Motion to Compel Discovery from the VDOC Defendants, in connection with which the Court awarded \$15980.00 (*see* ECF

Dkt. No. 109), as well as hours misallocated to this case file and applying billing judgment, my hours for which the Plaintiffs seek recovery total 3,159.50, with a value under the PLRA capped rate of \$211.50/hr., of \$668,234.25.

20. Rachel Hunnicutt, a graduate of George Washington University Law School, joined the Firm as an Associate in May 2011. Ms. Hunnicutt has participated extensively in the review and analysis of the Defendants' documents produced in response to the Plaintiffs' discovery requests. Ms. Hunnicutt also performed valuable legal research in connection with preparation of the Plaintiffs' response to Armor's Motion to Dismiss upon its being replaced as the VDOC's medical care contractor by Corizon, as well as with respect to potential ethics issues that arose when a former Corizon employee who had worked at FCCW sought to speak *ex parte* with Plaintiffs' counsel, assisting with the determination that the contact should not be pursued. Ms. Hunnicutt's standard Firm hourly rate while working on the case has ranged from \$535.00/hr. to \$560.00/hr. She has billed a total of 36.75 hours to the case, worth \$19,673.75. The Plaintiffs seek recovery for all of Ms. Hunnicutt's time, with a value under the PLRA capped rate of \$211.50/hr., of \$7,772.63.

21. Cori Lombard, a graduate of the Columbus School of Law of Catholic University, joined the Firm as an Associate in January 2011. Ms. Lombard performed extensive legal research regarding pleading standards to assist with the preparation of the Plaintiffs' Complaint for filing, assisted me with the briefing of Plaintiffs' Motion to Compel Discovery, and participated in the review and analysis of the Plaintiffs' Medical Records and the screening thereof for privilege in preparation for their production in response to the Defendants' discovery requests. Ms. Lombard's standard Firm hourly rate while she worked on the case ranged from \$295.00/hr. to \$480.00/hr. She billed a total of 70.75 hours to the case, worth \$28,612.50. After

subtraction from her total of the hours she spent working on the Plaintiffs' Motion to Compel, which the Court already took into account, the Plaintiffs seek recovery for 40.75 hours of Ms. Lombard's time, with a value under the PLRA capped rate of \$211.50/hr., of \$8,612.62.

22. David Markert, a graduate of Georgetown University Law Center, joined the Firm as an Associate in May 2006. Mr. Markert participated extensively in and helped coordinate the Firm's involvement in the pre-suit investigation, including multiple trips to FCCW to conduct interviews of prospective plaintiffs and witnesses. Mr. Markert's standard Firm hourly rate during the time he worked on the case ranged from \$365.00/hr. to \$410.00/hr. He billed a total of 69.75 hrs. to the case, worth \$26,336.25. The Plaintiffs seek recovery for all of Mr. Markert's time, with a value under the PLRA capped rate of \$211.50/hr., of \$14,752.13.

23. Marty Catherine Martin, a graduate of University of Michigan Law School, joined the Firm as an Associate in September 2006. Ms. Martin performed critical legal research for and assisted in the drafting of the Plaintiffs' Opposition to the VDOC Defendants' Motion to Dismiss, and also provided critical legal research regarding the issue of exhaustion of administrative remedies under the PLRA to assist in the preparation of the Plaintiffs' Opposition to the VDOC Defendants' Motion for Summary Judgment. Ms. Martin also participated in a variety of discovery-related activities. Ms. Martin's standard Firm hourly rate while she has worked on the case has ranged from \$365.00/hr. to \$555.00/hr. She has billed a total of 113.50 hours to the case, worth \$34,961.25. The Plaintiffs seek recovery for all of Ms. Martin's time, with a value under the PLRA capped rate of \$211.50/hr., of \$24,005.25.

24. Christiane McKnight, a graduate of Northwestern University Law School, joined the Firm as a fulltime Associate in September 2006. MS. McKnight participated extensively in the Firm's pre-suit investigation work, visiting FCCW on several occasions and conducting

interviews of prospective plaintiffs and witnesses. She also performed critical legal research for and assisted in the drafting of the Plaintiffs' Opposition to the VDOC Defendants' Motion to Dismiss and participated in discovery-related activities. Ms. McKnight's standard Firm hourly rate while she worked on the case ranged from \$365.00/hr. to \$495.00/hr. She billed a total of 354.25 hours to the case, worth \$108,943.75. The Plaintiffs seek recovery for all of Ms. McKnight's time, with a value under the PLRA capped rate of \$211.50/hr., of \$74,923.88.

25. Brandon Moss, a graduate of the University of Virginia Law School, joined the Firm as a fulltime Associate in October 2011. As a Summer Associate in the Summer of 2009, Ms. Moss did an extensive research and writing assignment addressing the matter of exhaustion of administrative remedies under the PLRA in the class action context and the "vicarious exhaustion" doctrine. When she returned to the Firm, Ms. Moss participated in the review and analysis of the Plaintiffs' Medical Records prior to their production in response to the Defendants' discovery requests, as well as in the review and analysis of the documents produced by the Defendants in response to the Plaintiffs' discovery requests. Ms. Moss' standard Firm hourly rate while she has worked on the case has ranged from \$240.00/hr. to \$440.00/hr. She has billed a total of 68.25 hours to the case, worth \$22,830.00. Subject to the exercise of billing judgment, the Plaintiffs seek recovery for 32.25 hours of Ms. Moss' time, with a value under the PLRA capped rate of \$211.50/hr., of \$6,820.00.

26. Lori Scheetz, a graduate of Georgetown University of Law Center, joined the Firm as a fulltime Associate in September 2007. Ms. Scheetz performed important legal research on key threshold issues in the early stages of the Firm's work, addressing liability standards and class action practice and procedure in the Fourth Circuit. She also participated in the pre-suit investigation, including travel to FCCW to conduct interviews of prospective

plaintiffs and witnesses. Ms. Scheetz's standard Firm hourly rate during the time she has worked on the case has ranged from \$250.00/hr. to \$550.00/hr. She has billed a total of 52.75 hours to the case, worth \$19,767.50. Subject to the exercise of billing judgment, the Plaintiffs seek recovery for 34.25 hours of Ms. Scheetz's time, with a value under the PLRA capped rate of \$211.50/hr., of \$7,243.87.

27. Laura Sherman, a graduate of George Washington University Law School, joined the Firm as a fulltime Associate in October 2012. Ms. Sherman participated extensively in the review and analysis of the Defendants' documents produced in response to the Plaintiffs' discovery requests, as well as the Plaintiffs' Medical Records in advance of their production in response to the Defendants' discovery requests. Ms. Sherman also provided important legal research to assist in the preparation of the Plaintiffs' Opposition to Defendant Corizon Health, Inc.'s Emergency Motion for Stay, filed after Corizon announced its intention in June 2014 to unilaterally cancel its contract to serve as the VDOC's medical care provider, effective as of October 1, 2014, and sought to delay the entire case as a result. Ms. Sherman's standard Firm hourly rate during the time she worked on the case ranged from \$305.00/hr. to \$400.00/hr. She billed a total of 34.75 hours to the case, worth \$12,958.75. Subject to the exercise of billing judgment, the Plaintiffs seek recovery for 31.00 hours of Ms. Sherman's time, with a value under the PLRA capped rate of \$211.50/hr., of \$6,556.50.

28. Paul Michel, an experienced Litigation Practice Support Specialist, and paralegals Garrett Fitzgerald and Robert Shields, provided invaluable support to not only Wiley Rein's attorneys but the Plaintiffs' litigation team as a whole, by managing all aspects of a complex, document-intensive case with extreme competency and efficiency. Mr. Michel's standard Firm hourly rate in effect during the case ranged from \$265.00/hr. to \$275.00/hr. Mr. Fitzgerald's

standard Firm hourly rate in effect during the case ranged from \$155.00/hr. to \$165.00/hr., while Mr. Shields' standard Firm hourly rate in effect during the case ranged from \$155.00/hr. to \$175.00/hr. Mr. Michel billed a total of 280.00 hours to the case, worth \$76,855.00.

Mr. Fitzgerald billed a total of 175.50 hours to the case, worth \$28,557.50. Mr. Shields billed a total of 127.50 hours to the case, worth \$20,635.00. 4.50 hours of Mr. Shields' time attributable to his work on the Plaintiffs' Motion to Compel has been deducted, leaving a total of 123.00.

The Plaintiffs seek recovery with respect to total hours for Messrs. Michel, Fitzgerald and Shields in the amount of 578.50 hours at a rate of \$150.00, for a total of \$86,450.00.

29. The reasonableness of the Wiley Rein attorneys' hourly rates within the context of the Washington DC legal market for practitioners of comparable experience can be measured by reference to the current versions of Adjusted *Laffey* Matrix and the U.S. Attorney's Office for the District of Columbia Civil Division's Adjusted Matrix, true and correct copies of which are attached hereto as Exhibits 2 and 3, respectively. Each of these Matrices has been accepted by the District of Columbia federal courts as competent evidence admissible for the purpose of establishing the prevailing market rates for Washington, DC attorneys engaged in complex federal litigation practice. *See, e.g., Covington v. District of Columbia*, 839 F. Supp. 894, 900 (D.D.C. 1993), *aff'd* 57 F.3d 1101, 1109-10 (D.C. Cir. 1995).

30. The Adjusted *Laffey* Matrix and the U.S. Attorneys' Office Adjusted Matrix establish the presumptive reasonableness of rates for entry-level practitioners in the time period beginning in 2009 of \$279.00/hr. (*Laffey*) and \$225.00/hr. (U.S. Atty). The standard Firm rates at Wiley Rein for the most junior attorneys involved in this litigation were in this range or higher. Accordingly, it is clear that the reasonable hourly rates chargeable by all of Wiley Rein's

attorneys for whom recovery is sought by the Plaintiffs herein exceed the PLRA capped rate of \$211.50, making that rate applicable to all of the attorney hours for which recovery is sought.

31. On the basis of my extensive experience over the course of more than 34 years in practice in the area of complex civil litigation in Washington, D.C., including extensive involvement in civil rights litigation in general and prisoners' conditions cases in particular, I believe that all of the hours incurred by myself and other members of my Firm for which recovery is sought by the Plaintiffs -- which is a small fraction of what the Firm put into the case -- were reasonably and necessarily incurred in pursuit of the successful result achieved on behalf of the Plaintiffs in this case.

32. As reflected by Wiley Rein's Detailed Billing Record, it has incurred litigation expenses in this action in a total amount of \$130,973.79. Deducting from that total the sum of \$90,096.45 attributable to the Firm's payments for the services rendered in the case by the Plaintiffs' Medical Expert, Robert B. Greifinger, M.D., as to which recovery is precluded under 42 U.S.C. § 1988, a balance of \$40,877.34 remains. Plaintiffs seek recovery of this amount as costs reasonably and necessarily incurred in conducting this complex, lengthy litigation.

II. OTHER SUPPORTING EVIDENCE

33. Attached hereto as Exhibit 4 are true and correct copies of documents evidencing that the rate authorized by the U.S. Judicial Conference for payment to court-appointed criminal defense attorneys under the Criminal Justice Act for the time period during which this litigation was principally conducted was \$141.00 per hour, including:

- Report of the Proceedings of the Judicial Conference of the United States, September 9, 2000;
- U.S. Judicial Conference 2011 Budget Statement to Congress;
- U.S. Judicial Conference 2014 Budget Justification to Congress; and

- U.S. Judicial Conference 2015 Budget Justification to Congress.

34. Attached hereto as Exhibit 5 are true and correct copies of the sworn Declarations of the Legal Aid Justice Center timekeepers that incurred hours for which the Plaintiffs seek recovery pursuant to this Petition, as well as the LAJC's incurred costs for which recovery is sought, with supporting documentation.

35. Attached hereto as Exhibit 6 is a true and correct copy of the Declaration of Deborah Golden, supplying evidence as to the hours and costs incurred by the Washington Lawyers' Committee for Civil Rights and Urban Affairs for which the Plaintiffs seek recovery pursuant to this Petition.

36. Attached hereto as Exhibit 7 is a true and correct copy of the Declaration of Victor M. Glasberg, dated October 19, 2015, submitted in support of the Plaintiff's Petition.

37. Attached hereto as Exhibit 8 is a true and correct copy of the Declaration of David C. Fathi, dated October 19, 2015, submitted in support of the Plaintiff's Petition.

38. Attached hereto as Exhibit 9 is a true and correct copy of the Declaration of Professor A. Benjamin Spencer, dated October 16, 2015, submitted in support of the Plaintiffs' Petition.

39. Attached hereto as Exhibit 10 is a true and correct copy of an Outline of Proposed Terms for Settlement that was prepared by Plaintiffs' counsel and provided to the Defendants on February 25, 2014.

40. Attached hereto as Exhibit 11 is a true and correct copy of correspondence exchanged between the Plaintiffs' counsel and counsel for the VDOC Defendants in September 2014 regarding settlement matters.

DATED: October 19, 2015



Theodore A. Howard