IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

THE NORTHEAST OHIO COALITION
FOR THE HOMELESS, et al.,
Plaintiffs

vs.

JON HUSTED, in his official capacity as
Secretary of State of Ohio,
Defendant

and

STATE OF OHIO,
Intervenor-Defendant.

Declarant: Stacey Leyton

Case No. 2:06-CV-896
Judge Algenon Marbley

DECLARATION OF STACEYLEYTON IN SUPPORT OF
PLAINTIFFS’ MOTION FOR
ATTORNEYS’ FEES

____________________________________________________________________
DECLARATION OF STACEY LEYTON

I, Stacey Leyton, declare the following based upon my personal knowledge:

1. I am a partner at the law firm of Altshuler Berzon LLP, and am one of the attorneys for Plaintiffs in the above-captioned matter. I make this declaration in support of Plaintiffs’ Motion for Attorney’s Fees.

2. I joined Altshuler Berzon LLP in 2001 as an associate and became a partner in the firm in 2008. I am a 1998 graduate of Stanford Law School, where I graduated first in my class and was a Symposium Editor of the Stanford Law Review. I served as a law clerk to Justice Stephen Breyer of the United States Supreme Court, Judge Stephen Reinhardt of the United States Court of Appeals for the Ninth Circuit, and Judge Susan Illston of the United States District Court for the Northern District of California. I served as an Appellate Lawyer Representative to the Ninth Circuit from 2010 until recently. In 2011, I was honored as a California Lawyer of the Year in the Public Interest area by California Lawyer Magazine for my work obtaining and defending a federal court injunction blocking reductions to the California program that provides in-home care to Medicaid recipients. I was selected to the Northern California 2013 Super Lawyers and as a 2012 Benchmark Plaintiff California Local Litigation Star and 2013 Benchmark Plaintiff Top 150 Women in Litigation. I have spoken and published articles on various topics including constitutional issues. I have briefed and argued numerous cases in federal district court and the Ninth Circuit as well as in California state trial and appellate courts. My current market rate is $665 per hour.

3. I am familiar with the qualifications of the other attorneys who worked on this case at Altshuler Berzon. The primary attorneys who have worked on this case in addition to me
Stephen Berzon graduated in 1968 from Harvard Law School. Before founding Altshuler Berzon LLP (as it is now known) in 1977, he clerked for Judge Alvin B. Rubin of the United States District Court for the Eastern District of Louisiana, served as the Legal Director of the Children’s Defense Fund in Washington, DC, and practiced beforehand with the Legal Aid Society of Alameda County as well as the National Housing and Economic Development Law Project of the law school at the University of California at Berkeley. He is a Fellow of the American Bar Foundation, served for several years on the national Board of Directors of the American Constitution Society, and is a member of the Executive Committee of the Northern District of California Chapter of the Federal Bar Association and was appointed by Chief Judge Alex Kozinski to the Ninth Circuit Advisory Committee on Rules and Internal Operating Procedures. From 2000 to 2009, he served on the Board of Directors of the AFL-CIO Lawyers Coordinating Committee. He is listed in The Best Lawyers in America for labor and employment law, and in San Francisco Magazine’s Northern California Super Lawyers in the appellate practice area. He received the Voting Rights Award from the ACLU of Southern California in 2002, and in both 2009 and 2013 was named a California Lawyer of the Year by California Lawyer Magazine in the areas of Civil Rights and Voting Rights for his work on voting rights cases (including this one) in Colorado, Indiana, and Ohio. Over the years, he has frequently lectured or participated on panels on litigation, constitutional, and legislative matters. He has testified before both Houses of Congress and both Houses of the California Legislature on prospective legislation. He specializes in major litigation, frequently involving constitutional and voting rights issues, at both the trial and appellate levels. He has argued before the United States Supreme Court.
States Supreme Court and the United States Court of Appeals for the District of Columbia, Fourth, Fifth, Ninth, and Tenth Circuits as well as numerous federal district courts, the California Supreme Court, and Courts of Appeal. He has also briefed cases in the United States Court of Appeals for the First, Second, Sixth, and Seventh Circuits, as well as numerous state courts. His current market rate is $875 per hour.

5. Barbara Chisholm graduated from Swarthmore College and is a 2001 graduate of Howard University Law School, where she was the Submissions and Symposium Editor of the Howard Law Journal. She joined Altshuler Berzon as an associate in 2002 and became a partner in 2010. She served as a law clerk to Judge Emmet G. Sullivan of the United States District Court for the District of Columbia. Ms. Chisholm has spoken and published articles on a variety of topics and presented oral argument and briefed cases in numerous federal and state appellate and trial courts. She is Chair of the Board of Directors of Pacific Environment. She previously served a Program Chair for the Bay Area Lawyer Chapter of the American Constitution Society, as a member of the Executive Committee of the Labor and Employment Section of the California State Bar, and on the Board of Directors of the AIDS Legal Referral Panel. Ms. Chisholm received a California Lawyer of the Year award in the Voting Rights area from California Lawyer Magazine in 2013 for her work in this case. Ms. Chisholm’s market rate is $575 per hour.

6. Danielle E. Leonard graduated from Harvard College in 1996 and from Harvard Law School in 2001. She served as a law clerk to Judge Emmet G. Sullivan of the United States District Court for the District of Columbia. Following her clerkship, Ms. Leonard was a trial attorney through the Attorney General’s Honors Program, in the Voting Section of the Civil Rights Division of the United States Department of Justice. She joined Altshuler Berzon LLP as
an associate in 2003 and became a partner in 2011. She has tried a month-long case before a jury, has conducted numerous oral arguments in appellate and trial courts on both the state and federal level, and has had primary responsibility for drafting many briefs in state and federal trial and appellate courts. She was named a Northern California Super Lawyers Rising Star for 2012 and 2013, a 2013 Benchmark Plaintiff Top 150 Women in Litigation and 2014 Benchmark Plaintiff Local Litigation Star, and received two California Lawyer of the Year awards in 2013, one in the area of Voting Rights for her work in this case and the other in the area of Education Law for her work obtaining and defending a $39 million judgment for a class of university students. Ms. Leonard currently serves as the co-chair of the Employment Subcommittee of the Class Actions and Derivative Suits Committee of Litigation Section of the American Bar Association, and she is a member of the Executive Committee of the Litigation Section of the Bar Association of San Francisco. Her current hourly market rate is $575.

7. Caroline Cincotta is an associate at Altshuler Berzon LLP. She received her law degree in 2007 from New York University School of Law, where she graduated first in her class and served as an Articles Editor for the New York University Law Review. She served as a law clerk for Judge Marsha S. Berzon of the United States Court of Appeals for the Ninth Circuit from 2007 to 2008 and was a Soros Fellow with the American Civil Liberties Union’s Immigrants’ Rights Project from 2008 to 2010 before joining Altshuler Berzon LLP in 2010. Her current hourly market rate is $420.

8. Diana S. Reddy was an associate at Altshuler Berzon LLP from 2011 through 2013. She received her B.A. and M.A. from Stanford University and her J.D. in 2008 from New York University School of Law, where she was a Root–Tilden–Kern Scholar and a Student Articles Development Editor for the Review of Law and Social Change. She served as a law
clerk to Judge Theodore A. McKee of the United States Court of Appeals for the Third Circuit and Judge Kimba M. Wood of the United States District Court for the Southern District of New York. She was the 2010-2011 Fellowship Attorney at the AFL-CIO. The market rate at Altshuler Berzon for associates with her level of experience is $400 per hour.

9. Other attorneys at Altshuler Berzon worked on discrete projects such as jurisdictional issues.

(a) Jonathan Weissglass is a partner at Altshuler Berzon LLP. He is a graduate of Yale College and Yale Law School, where he was an Articles Editor of the Yale Law Journal and a student director of the Poverty Clinic. He served as a law clerk to Chief Judge Myron H. Thompson of the United States District Court for the Middle District of Alabama and was a Karpatkin Fellow with the national legal department of the American Civil Liberties Union in New York. He received the Voting Rights Award from the ACLU of Southern California in 2002 and, has received two California Lawyer of the Year awards, one in 2009 for his work on an Indiana voting rights case and the other in 2013 in the area of Education Law. Mr. Weissglass’ hourly rate is $725.

(b) Peder Thoreen is a partner at Altshuler Berzon LLP. He is a 2001 graduate of Yale Law School, where he was a Senior Editor of the Yale Law and Policy Review. He served as a law clerk to Judge Harry Pregerson of the United States Court of Appeals for the Ninth Circuit and Judge Dean Pregerson of the United States District Court for the Central District of California. He is a member of the Editorial Board of Bender’s California Labor and Employment Bulletin. Mr. Thoreen’s hourly market rate is $575.
Matthew Murray is an associate at Altshuler Berzon LLP. He is a 2009 graduate of Harvard Law School, where he was Student Writing Article Editor of the Harvard Law and Policy Review. He served as a law clerk to Chief Justice Margaret Marshall of the Massachusetts Supreme Judicial Court. He is a member of the Legal Committee of the American Civil Liberties Union of Northern California, was a contributor to the ABA Section of Labor and Employment Law’s The Fair Labor Standards Act, 2nd Edition, 2012 Cumulative Supplement, and was named a Rising Star in the 2013 Northern California Super Lawyers listing in San Francisco Magazine. Mr. Murray’s current hourly rate is $375.

Prior to our involvement in this case, Altshuler Berzon LLP has had extensive experience in elections and constitutional cases. Among the elections cases in which Altshuler Berzon has served as counsel for a party or amicus curiae, besides NEOCH and SEIU Local 1, are the following: *Gomez v. Escondido*, Case No. 37-2011-00060480-CU-CR-NC (San Diego Superior Ct. 2013) (consent decree in voting rights case requiring conversion from at-large to district elections for city council); *Curley v. Lake County Bd. of Elections and Registration*, 896 N.E.2d 24 (Ind. App. 2008) (injunction requiring early voting polling stations in 2008 election in predominantly African American and Latino communities); *Common Cause of Colorado v. Coffman* (D. Colo. 2008) (court order preventing removal of registered voters from rolls and providing for ballots of improperly purged voters to be counted); *Brunner v. Ohio Republican Party*, 129 S. Ct. 5 (2008), reversing 544 F.3d 711 (6th Cir. 2008) (en banc) (opposing attempt to require Ohio state election officials to turn over to counties records of newly registered voters whose voter registration and motor vehicle information did not match); *State ex rel. Colvin v. Brunner*, 120 Ohio St.3d 110, 896 N.E.2d 979 (Ohio 2008) (opposing attempt to require Ohio
election officials to void certain absentee ballot applications); Project Vote v. Madison County Bd. of Elections, 2008 WL 4445176 (Ohio 2008) (opposing attempt to prevent new voters from casting absentee ballots); Knox v. Westly, 183 L.R.R.M. 3232, 2008 WL 850128 (E.D.Cal. 2008), rev’d sub nom. Knox v. Cal. State Employees Ass’n, Local 1000, 628 F.3d 1115 (9th Cir. 2010), rev’d sub nom. Knox v. SEIU Local 1000, 132 S.Ct. 2277 (2012) (defense of attempt to prohibit union from spending dues and fees to oppose anti-worker state ballot initiatives);

Floyd (Alameda Superior Ct. 2002) (defense of city’s wording of ballot question and ballot analysis for just cause eviction initiative); Barry v. Nishioka (S.F. Superior Ct. 1998) (writ ordering election officials to place candidates on ballot despite apparent noncompliance with nomination petition formalities). Mr. Berzon served as counsel in many of these cases. I served as counsel in the Ohio and Colorado litigation. Ms. Leonard served as counsel in the Indiana early voting litigation and Florida provisional ballot litigation. Ms. Chisholm served as counsel in the Colorado litigation.

11. Examples of other appellate and trial court cases that my partners and I have handled are set forth on our website, www.altshulerberzon.com, and in our law firm resume, which is attached hereto as Exhibit A.

12. Altshuler Berzon LLP first appeared in this case in May 2012, shortly after the State of Ohio filed a petition in the Ohio Supreme Court seeking an order requiring Ohio state officials to violate the Consent Decree. We were brought into this case by longstanding clients based on our experience in constitutional and election law matters. These clients have often engaged us to file actions in state and/or federal court to challenge, on constitutional or statutory grounds, state laws or practices that disenfranchise voters. In particular, we have engaged in high stakes litigation in many cases in the weeks and months leading up to major elections. That includes substantial prior involvement in Ohio in 2008, both representing amici in three separate Ohio elections cases and engaging in advocacy on the wrong precinct issue.

13. These clients pay us for our work at a public interest rate that is significantly discounted from our market rate, with the understanding that if we prevail in the case we will seek attorneys’ fees at market rates and reimburse what they have paid.
14. The work of the Altshuler Berzon LLP attorneys was critical to Plaintiffs’ success in this case. From the time we became involved, we took the lead role in researching the legal issues, compiling the factual record, outlining and drafting the legal briefing, and presenting Plaintiffs’ oral argument at court hearings.

15. Altshuler Berzon maintains contemporaneous time records setting forth the amount of time spent (rounded to the nearest one-tenth of an hour) on each task and each case, along with brief explanatory statements regarding the actual task involved. Our usual and customary practice is to record on daily time logs only those hours that our firm would customarily bill to a client paying on an hourly basis. That practice was followed throughout this litigation by all billers. During the time period covered by this case, our law firm used a remote time entry program called Distributed Time Entry (“DTE”) to record our billable time. At or near the time the work was performed, the hours were input into DTE, which recorded and stored the time as individual electronic entries, along with descriptions of the tasks performed. Shortly after the end of each month, the time entries are electronically released to the accounting department.

16. I have personally reviewed all of the time entries submitted to determine that the hours were actually and reasonably expended in the case, and to eliminate any time that was excessive, redundant, or otherwise unnecessary. All hours submitted with this request for fees were actually billed to a paying client. These hours submitted comprise fewer hours than those actually expended by attorneys working on this case, for a number of reasons. First, in the exercise of our customary billing judgment, we reduced our billed time by (or “no-charged”) over 150 hours before sending bills to our clients. For example, if time was inefficiently spent, duplicative, or otherwise non-productive, or if the magnitude or importance of the task
performed did not warrant the amount of time actually billed, we reduced or eliminated that time.
Second, in reviewing time records in preparation for filing this motion, we have deleted all time
entries for the substantial amounts of time spent on claims for which we did not obtain relief
(including our wrong location and ballot affirmation claims). Third, we exercised further
judgment to eliminate 30.30 hours that were actually billed to our clients but that we determined
should not be sought from Defendants.

17. Attached hereto as Exhibit B are the edited time logs that itemize the work
performed in this case to date for which Plaintiffs seek attorneys' fees. These logs cover work
performed through and including October 31, 2013. I personally reviewed all of the time entries
in this case to ensure that the time included was directly related to this litigation and to organize
the time entries into five categories of how time was spent:

(1) Preparing to intervene in Ohio Supreme Court action in the event that
the motion for an injunction was unsuccessful, which was necessary
given how quickly the Ohio Supreme Court could have acted (total of
$15,531.50 in fees);

(2) Obtaining injunction requiring dismissal of Ohio Supreme Court
challenge to consent decree (total of $144,351 in fees);

(3) Opposing Defendants’ motion to vacate the consent decree (total of
$342,802.50 in fees);

(4) Litigating the motion to modify the consent decree, which was mooted
by the grant of the preliminary injunction in the related case SEIU
Local 1, Case No. 12-CV-562 (total of $88,030.50 in fees);

(5) Preparing this motion for attorneys’ fees (total of $44,864.75).
18. I have edited or redacted a limited number of specific time entries regarding communications with clients in order to maintain the attorney-client privilege and to avoid revealing attorney work product information, such as strategies and avenues of research. I also reviewed the time entries to ensure that each task was billed to the correct case. We will submit a statement of additional attorney time incurred after October 31, 2013 in conjunction with Plaintiffs’ reply papers.

19. Set forth below is a chart listing the lodestar hours, rates, and totals by attorneys at Altshuler Berzon LLP for work on this matter to date.

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<tr>
<th>Biller</th>
<th>Law School Graduation Year</th>
<th>Hourly Rate</th>
<th>Hours</th>
<th>Lodestar</th>
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<tr>
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<td>$79,462.50</td>
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<td>Danielle Leonard</td>
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<td>$490</td>
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<td>Barbara Chisholm</td>
<td>2001</td>
<td>$490</td>
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<td>$53,165</td>
</tr>
<tr>
<td>Caroline Cincotta</td>
<td>2007</td>
<td>$355</td>
<td>176.90</td>
<td>$62,799.50</td>
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<tr>
<td>Diana Reddy</td>
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<td>Others</td>
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<td>Various</td>
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<tr>
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<td>Various</td>
<td>Various</td>
<td>1,435.40</td>
<td>$635,580.25</td>
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20. The hourly rates set forth in the chart in the previous paragraph represent 85% of Altshuler Berzon’s current 2013 California market hourly rates. Based on my knowledge, research, and experience as outlined above, Altshuler Berzon’s 2013 California rates are commensurate with San Francisco Bay Area market rates for attorneys of comparable skill and experience. We have discounted these rates by 15% to account for the lower rates paid in the Ohio legal market.

21. These 2013 California market rates are actually billed to commercial clients paying on a monthly basis including by attorneys in this case. Among the recent matters for which Altshuler Berzon has billed at these market rates are Standard Chartered Bank v. Ahmad

22. Altshuler Berzon LLP’s current market rates for commercial clients have been approved in numerous recent cases, including for attorneys in this case. Those cases include, but are not limited to, Luquetta v. Regents of the Univ. of Cal., Case No. CGC-05-443007 (San Francisco Superior Court) (approving 2012 rates including $850 for senior partner and $570 for Ms. Leonard); Vasquez v. Cal., Case No. GIC 740832 (San Diego Superior Court) (approving 2012 rates of $850 for partner and $375 for associate); Div 15 Tech v. Sheet Metal Workers’ Int’l Ass’n, Case Nos. C-10-05309, C-10-05423 (N.D. Cal.) (approving 2011 rates including $545 for 2000 law school graduate and $215 per hour for paralegals); Air Line Pilots Ass’n Int’l v. United Airlines, Inc., CGC-07-468937 (JAMS Ref. No. 1100061566) (San Francisco Super. Ct.) (2011 rates of $825 per hour (partner); $595 per hour (Ms. Leyton); $520 per hour (Ms. Chisholm); $330 per hour (associate)); Zalua v. Tempo Research Corp., Case No. BC319156 (Los Angeles County Super. Ct.) (2011 rates of $520-$825 for partners); Swanson v. California Dept. of Transportation, Case No. RG 09-476468 (Alameda County Superior Court) (approving 2010 rates of $750-$1500 for partners).
rates of $785 (Mr. Berzon) and $490 (senior associate, 2001 law school graduate)); Committee for Recognition of Nursing Achievement v. Lucile Salter Packard Children's Hospital, Case No. 10-cv-1633 JF (N.D. Cal.) (approving 2010 hourly rates of $785 for senior partner and $540 for junior partner); Ayon v. Cintas, Case No. BC310696 (approving 2010 rates including $490 for Ms. Chisholm); Bell v. Farmers Servs., LLC, Case No. BC-438517 (2010 rates); Aguiar v. Cintas Corp., BC310696 (Los Angeles County Superior Court) (2010 rates); Wynne v. McCormick & Schmick’s, 06-cv-3154 CW (N.D. Cal.) (approving 2008 rates of $750 (partner)); Curtis-Bauer v. Morgan Stanley & Co., Case No. C-06-3903-THE (2008 rates); Adams v. Inter-Con Security Systems, C-06-5428 MHP (N.D. Cal.) (approving 2007 rates of $700 per hour (partner), $650 per hour (partner), and $350 (associate)); Satchell v. FedEx Express, No. C03-2659 SI (N.D. Cal.) (approving 2007 rates of $700 per hour (partner) and $550 per hour (partner)); Amaral v. Cintas Corp. No. 2, A114981 (1st App. Dist.) (2006 rates); Gardner v. Schwarzenegger, Case No. RG06-278911 (Alameda County Superior Ct. and Cal. Ct. App.) (2008 rates including $500 for Ms. Leyton).

23. Attached hereto as Exhibit C is a true and correct compilation of the categories and amounts of out-of-pocket expenses incurred by Altshuler Berzon LLP in litigating this action. Exhibit C was prepared under my direction from contemporaneous expense records maintained in the normal course of our law firm’s business, and includes only those expenses that we customarily charge to our paying clients, at the rates that we customarily charge. All of these expenses were necessarily incurred in this case and all were actually billed to a paying client. The total amount of out-of-pocket expenses incurred to date is $14,322.68.

24. Fees for expert Dan Mordarski are also sought in the amount of $687.60. This is for half of the amount charged for 3.9 hours of Mr. Mordarski’s time at a rate of $340 per hour,
plus his expenses, which was actually paid in this case and which is discounted from the rate that Mr. Mordarski has charged for similar declarations in other cases. Mr. Mordarski’s declaration regarding Altshuler Berzon’s work in this case and the reasonableness of the rates sought is submitted contemporaneously with this fees application. His qualifications are set forth in that declaration.

25. Attached hereto as Exhibit D is a true and correct copy of the answer filed by the Ohio Secretary of State in State ex rel. Niehaus v. Husted, Case No. 2012-0639 (Ohio Supreme Court), which we obtained from the Ohio Supreme Court.

26. Attached hereto as Exhibit E is a true and correct copy of excerpts of the brief that Plaintiffs filed in the Sixth Circuit in defense of this Court’s order denying Defendants’ request to vacate the Decree.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

Executed this 12th day of December at San Francisco, California.

s/ Stacey Leyton
Stacey Leyton
CERTIFICATE OF SERVICE

I certify that on December 12, 2013, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the counsel of record in this case.

/s/ Stephen P. Berzon

STEPHEN P. BERZON, pro hac vice
STACEY M. LEYTON, pro hac vice
BARBARA J. CHISHOLM, pro hac vice
DANIELLE LEONARD, pro hac vice
Altshuler Berzon LLP
177 Post Street, Suite 300
San Francisco, CA 94108
Telephone: (415) 421-7151
E-mail: sberzon@altshulerberzon.com

Attorney for Plaintiffs SEIU District 1199