

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

C.P., individually and on behalf of F.P., a minor child; D.O. individually and on behalf of M.O., a minor child; S.B.C., individually and on behalf of C.C., a minor child; A.S., individually and on behalf of A.A.S., a minor child; M.S., individually and on behalf of her minor child, H.S.; Y.H.S., individually and on behalf of his minor child, C.H.S.; E.M. on behalf of her minor child, C.M.; M.M., individually and on behalf of K.M.; L.G., individually and on behalf of her minor child, T.M.; E.P., individually and on behalf of her minor child, Ea.P.; and on behalf of ALL OTHERS SIMILARLY SITUATED,

Plaintiffs,

v.

NEW JERSEY DEPARTMENT OF EDUCATION; KEVIN DEHMER, Interim Commissioner of Education, in his official capacity,

Defendants.

Civil Action No. 19-cv-12807

**CERTIFICATION OF
DAVID R. GILES**

David R. Giles, of full age, hereby certifies as follows:

1. I am an attorney admitted to practice law in the State of New Jersey, a member of the bar of this Court, and co-Class Counsel in this matter.
2. I make this certification based on my personal knowledge in support of my application for attorney's fees in this matter.
3. I received my Bachelor of Arts degree from Harvard University in 1984 and my Doctor of Jurisprudence degree from Stanford Law School in 1989.

4. I was admitted to practice law in the state of California in 1989, the state of New Jersey in 2001, and the state of New York in 2003. I am currently an active member of the New Jersey bar and an inactive member of the California and New York bars.

5. I have also been admitted to practice in the Supreme Court of the United States, the United States Court of Appeals for the Third Circuit, the United States District Courts for the District of New Jersey and the Northern District of California.

6. I have practiced law on a continuous full-time basis since 1989.

7. Upon my graduation from law school in 1989, I was awarded a Skadden Fellowship through which I worked for two years as an attorney in the area of education law at California Rural Legal Assistance in California.

8. From 1991 to 1998, I worked as a Supervising Attorney at the East Palo Alto Community Law Project in East Palo Alto, California, where I worked on youth and education law cases for indigent clients and supervised Stanford law students.

9. From 1998 to 2001, I worked as an Attorney for the United States Department of Education, Office for Civil Rights, in San Francisco and New York, where I enforced federal civil rights laws in connection with educational programs in schools that receive federal funding.

10. From 2001 to 2003, I worked as a Senior Attorney at the Education Law Center (“ELC”) in Newark where I continued to specialize in education law.

11. In 2003, I started a solo private practice in New Jersey also specializing in education law, representing parents and students, which I have maintained ever since.

12. Since 2003, I have also continued to work for ELC on a part-time basis, except for a break between 2009 and 2015.

13. In addition to education law cases, from 2010 to 2015, I also represented children as designated counsel for the New Jersey Office of the Public Defender, Office of Law Guardian in appeals in child welfare cases before the New Jersey Superior Court, Appellate Division.

14. From December 2019 through May 2020, I also worked on a part-time basis for Rutgers Law School Education and Health Law Clinic representing persons, mostly parents, seeking legal guardianship of individuals with disabilities who are not capable of managing their own affairs. This work entailed representing clients before the Superior Court of New Jersey, Chancery Division, Probate Part in the counties of Essex, Hudson, Middlesex and Union.

15. During the 2022-2023 school year, I also worked on a part-time basis for the Rutgers Law School Education and Health Law Clinic teaching and supervising law students enrolled in the Clinic and working on special education cases.

16. In my legal career of almost 35 years, my practice has focused in the areas of civil rights, youth and education law, with the greatest emphasis in special education law.

17. I have substantial experience representing parents, students and children in education and other children's law-related matters before school district and state boards of education, state administrative tribunals and state and federal trial and appellate courts in California and New Jersey.

18. I have presented on topics related to education and civil rights laws, particularly special education law, to parents, educators and lawyers. For example, I have presented at the New Jersey Judiciary's Children in the Court Improvement Program, New Jersey State Bar Foundation's Special Education Law Seminar, New Jersey Institute for Continuing Legal Education's School Law Conference, New Jersey State Bar Foundation and Essex County Volunteer Lawyers for Justice Special Education Advocacy Training, Rutgers School of Law's

Rethinking Discipline Conference, Autism New Jersey's Annual Conference, Asperger/Autism Spectrum Education Network Annual Fall Conference, and the Alliance of Private Special Education Schools of New Jersey's Annual Spring Conference.

19. I am recognized by colleagues as having expertise in the area of educational law generally, and special education law in particular, and am frequently consulted by and mentor Volunteer Lawyers for Justice lawyers in special education cases.

20. I am a member of the New Jersey State Bar Association's School Law Committee and New Jersey Special Education Practitioners, a statewide association of attorneys and professional advocates who represent parents of students with disabilities in special education matter.

21. Aside from my professional career, I have also served a term as an elected member of the South Orange and Maplewood School District Board of Education, from 2010 through 2014.

22. My rate reflects a normal increase over time that is consistent with what courts have found reasonable for my work in the past and prevailing market rates for attorneys with similar experience, skills and reputation in New Jersey.

23. In 1998, the billing rate of \$225 per hour was accepted as reasonable for my work by the United States District Court for the Northern District of California in Citizens for Lawful and Effective Attendance Policies v. Sequoia Union High School District, Dkt. No. C-87-3204 (MMC).

24. In 2004, the billing rate of \$250 per hour was accepted as reasonable for my work by the Superior Court of New Jersey in Union County in S.R.R. on behalf of S.R., a minor, v. Roselle Borough Board of Education, Dkt. No. UNN-C-117-04.

25. In 2011, the billing rate of \$325 per hour was accepted as reasonable for my work by the United States District Court for the District of New Jersey in K.N. v. Passaic City Bd. of Educ., Civil Action No. 11-399 (JLL), 2011 WL 5157280 (Oct. 28, 2011) (the Court found that my uncontested billing rate of \$325 per hour was reasonable).

26. In January 2015, I raised my full fee in litigated special education cases when my clients prevail to \$400 per hour, and in March 2020, I raised it again to \$450 per hour.

27. I just raised my rate again in January 2024 to \$585 per hour to bring it in line with prevailing market rates.

28. I am familiar with fees charged by private special education attorneys in New Jersey and aware of what courts have found to be reasonable for such attorneys. Based on that familiarity and knowledge, I believe my rate is comparable to those prevailing in New Jersey for similar services by lawyers of comparable experience, skills and reputation.

29. During the litigation in this matter, I contemporaneously recorded the time I spent working on this case using legal timekeeping and billing software.

30. A bill reflecting my time spent on this case through February 18, 2023, is attached hereto as Exhibit 1. As reflected therein, I spent a total of 143.4 hours on this case up until that time, and, based on the a rate of \$585.00 per hour for my work, the total fee for my work is \$83,889.00.

Dated: March 6, 2024

I hereby certify under penalty of perjury that the foregoing is true and correct.

/s/ David R. Giles
David R. Giles

David R. Giles
Attorney at Law

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45 Day Rule Class

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Fees:			Hours	
05/16/19	DRG	review complaint	1.4	819.00
05/19/19	DRG	review complaint	1.6	936.00
05/21/19	DRG	review discovery materials and related brief section	0.4	234.00
05/21/19	DRG	class counsel conf call re complaint	0.5	292.50
05/21/19	DRG	add KM to complaint	0.6	351.00
05/22/19	DRG	review near final draft of complaint	1.2	702.00
05/22/19	DRG	review service of complaint rules	0.2	117.00
05/22/19	DRG	draft language for motion on class counsel	0.5	292.50
05/22/19	DRG	review and comment re draft motion and consent order	0.8	468.00
06/06/19	DRG	review JPA	0.3	175.50
07/10/19	DRG	conference call	0.8	468.00
07/12/19	DRG	TC with JR re potential PI motion and identification of potential class reps	0.8	468.00
08/13/19	DRG	conf call re motion to dismiss	1.1	643.50
08/13/19	DRG	drat email to NJSEP	0.3	175.50

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08/23/19	DRG	conf call wtih counsel	1.0	585.00
10/20/19	DRG	review brief	1.3	760.50
10/21/19	DRG	continue to review PI brief	0.6	351.00
11/15/19	DRG	review and comment on motion to dismiss	1.0	585.00
01/21/20	DRG	review DOE records in prep for meeting; conference call	1.3	760.50
02/17/20	DRG	review papers related to various motions.	3.3	1,930.50
02/18/20	DRG	oral argument, including 1.75 hours travel	5.5	3,217.50
02/18/20	DRG	mtg to help plaintiffs' attorneys prepare for oral argument, including 1.5 hours travel	3.5	2,047.50
02/19/20	DRG	conference call with attorney's re next steps after oral argument	0.9	526.50
02/19/20	DRG	TC with ELC about possible monitors.	0.2	117.00
02/20/20	DRG	comment on KM facts in complaint for edits to 2d amended complaint	0.4	234.00
02/21/20	DRG	draft email to Catherine R. re facts.	0.2	117.00
02/27/20	DRG	review of requirements related to appointment of a special master or monitor	0.6	351.00
03/02/20	DRG	prep for conference call and conference call re pending motions	1.2	702.00
03/04/20	DRG	review draft letter brief	1.0	585.00
03/20/20	DRG	conf call with Plaintiffs' attorneys	0.5	292.50
04/03/20	DRG	conference call with co-counsel re MTD and potential discovery	0.7	409.50
05/26/20	DRG	conference call wtih plaintiffs counsel.	0.8	468.00
06/04/20	DRG	conf call w counsel re OAL's letter re delays in	0.5	292.50

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		decisions and implications for case		
07/01/20	DRG	review draft counsel agreement	0.2	117.00
07/02/20	DRG	conference call re JA case and internal agreement between counsel	0.3	175.50
08/31/20	DRG	review brief in support of 65a2 relief	0.4	234.00
09/22/20	DRG	review reply brief re motion to consolidate PI and expedited trial	0.5	292.50
12/12/20	DRG	conference call re expedited discovery plan, conference with DAG	1.8	1,053.00
12/13/20	DRG	conference call with co-counsel re discovery plan	0.4	234.00
12/22/20	DRG	review draft settlement proposal	0.9	526.50
01/14/21	DRG	review DOE's discovery requests and conference call re same with class counsel	1.0	585.00
01/22/21	DRG	review draft answers in preparation for discussion with M.M. re her responses	1.0	585.00
02/04/21	DRG	Review NJDOE's discovery request and prepare response	2.7	1,579.50
02/05/21	DRG	continue to work on responses to interrogatories.	1.5	877.50
02/05/21	DRG	gather documents responsive to request for docs	1.0	585.00
02/05/21	DRG	draft retainer agreement memorializing same with M.M.	0.3	175.50
02/06/21	DRG	CONTINUE TO COLLECT DOCUMENTS IN RESPONSE TO DEF'S DOC REQUEST AND RESPONSES TO ROGS	4.7	2,749.50
02/09/21	DRG	closely review proposed answers to rogs for KM	1.0	585.00
02/10/21	DRG	prepare answers to rogs for client signature	0.1	58.50

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02/10/21	DRG	prepare unduplicated hard copies for discovery	1.1	643.50
02/10/21	DRG	call with MM re discovery	0.6	351.00
02/17/21	DRG	TC with MM re email gathering from client	0.3	175.50
02/19/21	DRG	reach out to client	0.1	58.50
02/23/21	DRG	tc MM re email and discovery	0.2	117.00
04/08/21	DRG	review deliberative process brief	1.5	877.50
05/08/21	DRG	conference call with plaintiffs' counsel re depositions	0.8	468.00
05/10/21	DRG	research deposition schedule	0.4	234.00
05/14/21	DRG	review letter to NJDOE counsel re discovery	0.4	234.00
05/18/21	DRG	review board letter re deposition of MM schedule	0.1	58.50
05/18/21	DRG	MM deposition prep	1.9	1,111.50
07/06/21	DRG	compile OAL transcript requests to support depos of SPEDR director	0.5	292.50
07/14/21	DRG	prep MM for depos	0.8	468.00
07/15/21	DRG	mm deposition	6.5	3,802.50
08/18/21	DRG	tc from potential class member re notice of opportunity to object to disclosure of her due process records	0.2	117.00
08/19/21	DRG	TC with parent potential witness re time to discuss her case	0.1	58.50
08/20/21	DRG	tc with parent who received notice of disclosure of DPH records and potential witness and follow up TC with JR	0.7	409.50
08/23/21	DRG	tc with JR about the possibility of identifying further witnesses for trial	0.2	117.00

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08/23/21	DRG	review old files for potential witnesses and reach out to old clients.	0.9	526.50
08/24/21	DRG	conference call with plaintiff lawyers re potential new witnesses	0.6	351.00
08/25/21	DRG	prepare information related to clients identified as witnesses for NJDOE	0.5	292.50
08/25/21	DRG	tc with co-counsel about potential witnesses and files and confidentiality of disclosures	0.0	No charge
08/27/21	DRG	pull together CM (potential witness) files for NJDOE	0.8	468.00
09/02/21	DRG	conf call with counsel to debrief hearing on deliberative process	0.3	175.50
09/13/21	DRG	TC with John Rue about OSC hearing for CP individual related case	0.5	292.50
09/14/21	DRG	conference call with John Rue and Don Soutar re related case with OSC before Judge Hillman	0.4	234.00
09/17/21	DRG	tc John rue re liaison with Amici on direct examination of Amici	0.7	409.50
09/17/21	DRG	TC with potential witness re TC from DAG and her potential involvement in case and individual case	0.3	175.50
09/20/21	DRG	review correspondence in prep for class steering committee	0.2	117.00
09/20/21	DRG	conference call with class counsel	0.5	292.50
09/21/21	DRG	tc with JR and DS re plan for PI motion	0.7	409.50
10/12/21	DRG	discovery conference	1.3	760.50
10/24/21	DRG	review question about confidentiality designation	0.3	175.50
11/20/21	DRG	review statement of undisputed facts	0.9	526.50

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12/20/21	DRG	Pretrial conference	1.0	585.00
12/20/21	DRG	meeting with co-counsel re PTC and motions to be filed	0.8	468.00
12/27/21	DRG	review and respond to JR's questions about remote or in-person trial	0.6	351.00
01/10/22	DRG	tc John Rue re preparation and examination of amici witnesses	0.0	No charge
01/13/22	DRG	pretrial conference on remote/in-person trial	0.5	292.50
01/13/22	DRG	meeting of plaintiffs counsel to debrief pretrial conference	0.5	292.50
01/14/22	DRG	TC with plaintiffs regarding case and prep for trial	0.7	409.50
01/23/22	DRG	Review JR's litigation plan and plan work need to prep and present witnesses	0.9	526.50
01/23/22	DRG	research hearsay (intake or client files); confidentiality (client information); opinion (lay or expert, fact or opinion)	2.3	1,345.50
01/24/22	DRG	steering committee meeting on trial preparation	1.0	585.00
01/27/22	DRG	collect and review relevant filings to assist in preparation for trial	1.5	877.50
01/27/22	DRG	continue to prepare to present witnesses (amici, class member and name plaintiff)	1.1	643.50
01/31/22	DRG	review recent filings	1.5	877.50
02/02/22	DRG	continue to prep for discussion with CM re testimony	0.1	58.50
02/02/22	DRG	TC CM re testimony	0.5	292.50
02/02/22	DRG	TC w director of SPAN re her potential testimony	1.0	585.00

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02/04/22	DRG	team meeting	0.8	468.00
02/05/22	DRG	attempts to locate and contact MM	0.2	117.00
02/06/22	DRG	Plan work for 45-day class action	0.2	117.00
02/06/22	DRG	work on input to trial plan	2.1	1,228.50
02/08/22	DRG	met with MM in person re her testimony	2.0	1,170.00
02/10/22	DRG	follow up on transfer of witness assignments email	0.5	292.50
02/10/22	DRG	tc john rue re trial prep	0.3	175.50
02/10/22	DRG	prep info for trial prep re witnesses and exhibits	1.7	994.50
02/11/22	DRG	continue to prep info for trial prep re witnesses and exhibits	2.5	1,462.50
02/12/22	DRG	continue to prep info for trial prep re witnesses and exhibits	0.8	468.00
02/12/22	DRG	tc JR re availability for trial related work	0.5	292.50
02/12/22	DRG	continue to work on legal standards applicable to complaint and enforcement action	0.0	No charge
02/15/22	DRG	call with JR and JW re how to respond to District's MSJ in individual CP case	0.5	292.50
02/15/22	DRG	draft letter in individual CP case	1.9	1,111.50
02/22/22	DRG	review motions in prep for pre-hearing meeting with counsel	0.4	234.00
02/22/22	DRG	meeting w co-counsel to prep for hearing	0.8	468.00
02/22/22	DRG	hearing/conference with Judge Hillman	1.0	585.00
02/22/22	DRG	meeting with co-counsel after hearing	0.2	117.00
03/03/22	DRG	tc john rue about preparation for oral argument	0.7	409.50

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03/04/22	DRG	CP Team meeting	1.0	585.00
03/07/22	DRG	Oral argument on all pending motions	1.8	1,053.00
03/07/22	DRG	meeting with co-counsel after oral argument	0.4	234.00
03/08/22	DRG	review pending motions prior to oral argument	1.4	819.00
03/10/22	DRG	review draft letter to hillman re discovery	0.1	58.50
04/10/22	DRG	review cases with 45 day violations	0.7	409.50
04/18/22	DRG	prepare information and documents related to 45-day rule violation in OK	2.4	1,404.00
06/03/22	DRG	review plaintiffs' and defendant's settlement proposals	0.5	292.50
06/07/22	DRG	review settlement position paper	0.2	117.00
06/08/22	DRG	continue to review docs related to settlement	0.2	117.00
06/08/22	DRG	conf call with cp attorneys re settlement	1.3	760.50
06/10/22	DRG	review and comment on summary about CP settlement discussions.	0.2	117.00
06/21/22	DRG	review draft settlement proposal for Magistrate	1.3	760.50
08/15/22	DRG	conference call with co-counsel re MM	0.6	351.00
08/16/22	DRG	tc MM re potential testimony	0.5	292.50
08/24/22	DRG	class lawyer team meeting to discuss decision on certification and trial prep	1.5	877.50
08/30/22	DRG	review draft letter	0.2	117.00
09/07/22	DRG	review (2 hours) and discuss draft edits to proposed due process guidelines	3.9	2,281.50
09/07/22	DRG	mtg to continue discussing proposed hearing guidelines	1.0	585.00

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09/14/22	DRG	review amici comments to guidelines	0.2	117.00
09/20/22	DRG	continue to review draft guidelines, reconcile comments of amici, and make further comments or edits	1.8	1,053.00
09/21/22	DRG	TC with lead trial counsel re potential for Def. calling MM	0.2	117.00
09/23/22	DRG	review and comment on comments from Amici to proposed comments with JDR and edits	0.4	234.00
09/23/22	DRG	conference call to preview plan for opening and direct examination of our witnesses at trial	1.5	877.50
09/26/22	DRG	review comments of amici to proposed DP prehearing guidelines	0.2	117.00
09/27/22	DRG	continue review comments of amici to proposed due process hearing guidelines	0.9	526.50
09/28/22	DRG	continue to review and comment on amici comments to guidelines	1.1	643.50
10/23/22	DRG	work on reconciling comments to guidelines	1.6	936.00
10/24/22	DRG	conference call with plaintiffs' counsel re settlement negotiations	1.4	819.00
10/30/22	DRG	continue to reconcile comments on guidelines	2.0	1,170.00
11/01/22	DRG	draft email to JR describing work done on guidelines	0.3	175.50
12/17/22	DRG	TC JR re settlement discussions	0.5	292.50
12/17/22	DRG	research re data re # of SE cases that settle at OAL settlement conferences.	1.2	702.00
12/20/22	DRG	TC JR RE SETTLEMENT DISCUSSIONS AND MM'S INVOLVEMENT AT TRIAL	0.7	409.50
01/31/23	DRG	review and comment on trial opening statements and trial plans	1.0	585.00

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Hours:	143.4	
Total fees:		\$83,889.00

Billing Summary

Previous balance	\$0.00
Payments & adjustments	0.00
Current fees & expenses	83,889.00
Total now due	\$83,889.00