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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Fred Graves, Isaac Popoca, on their own)
behalf and on behalf of a class of all)
pretrial detainees in the Maricopa County)
Jails,)

Plaintiffs,)

vs.)

Joseph Arpaio, Sheriff of Ma ricopa)
County; Fulton Brock, Don Stapley,)
Andrew Kunasek, Max W. Wilson, and)
Mary Rose W ilcox, Maricopa County)
Supervisors;)

Defendants.)

No. CV77-0479-PHX-NVW

ORDER

Before the Court are Defendants' and Plaintiffs' motions for relief under Fed. R. Civ. P. 60. (Doc. ##1830, 1835.)

On April 20, 2009, under 42 U.S.C. §§ 1988 and 1997e(d), the Court granted Plaintiffs' motion for attorneys' fees and non-taxable costs in the amount of \$1,239,491.63 for fees and \$123,221.77 for non-taxable costs, plus interest on the award at the federal judgment rate accruing from October 22, 2008. (Doc. #1799.) The Court further ordered that Plaintiffs could claim by May 6, 2009, additional fees and expenses accrued after December 5, 2008, and that the Court would then direct entry of judgment in the total amount awarded, with interest from October 22, 2008. (*Id.*)

1 In response to Plaintiffs' application for fees and expenses accrued after December
2 5, 2008, Defendants objected to (1) the hourly rate requested, (2) time spent discussing
3 settlement issues with attorneys who do not represent Defendants, (3) fees and costs for
4 allegedly unnecessary work and expenses, and (4) interest accrued from October 22,
5 2008. (Doc. #1809.) In their Reply, Plaintiffs withdrew their request for interest accrued
6 from October 22, 2008, for fees incurred after December 5, 2008, reduced their request
7 for non-taxable costs by \$448.91 for a clerical error, and submitted additional
8 documentation supporting their requested hourly rate. (Doc. #1822.) Because the
9 additional documentation indicated the requested hourly rate became effective January 1,
10 2009, not October 1, 2008, as Plaintiffs initially contended, the Court ordered Plaintiffs
11 leave to amend their fee application accordingly. (Doc. #1823.) As amended, Plaintiffs
12 requested award of \$97,029.55 in attorneys' fees and \$4,970.52 in non-taxable costs with
13 statutory interest from entry of the Order until the award is paid. (Doc. #1826.) In their
14 amended fee application, Plaintiffs inadvertently excluded \$7,604.70 in fees incurred by
15 the ACLU Arizona after January 1, 2009, which had been included in their initial fee
16 request (doc. #1801).

17 On July 2, 2009, the Court granted Plaintiffs' amended motion for attorneys' fees
18 and non-taxable costs for work performed December 6, 2008, through April 30, 2009, and
19 judgment was entered in favor of Plaintiffs against Defendants in two components. (Doc.
20 ##1827, 1828.) The first component was \$1,239,491.63 for attorneys' fees and
21 \$123,221.77 for non-taxable costs plus interest at the federal rate from October 22, 2008,
22 until paid. (*Id.*) The second component was \$97,029.55 for attorneys' fees and \$4,970.52
23 for non-taxable costs plus interest at the federal rate from the date of the Order. (*Id.*)

24 On July 6, 2009, Defendants moved for Rule 60 relief to amend the April 20, 2009
25 and July 2, 2009 Orders and the July 2, 2009 Judgment, which granted interest accruing
26 from October 22, 2008, on attorneys' fees and non-taxable costs incurred October 22,
27 2008, through December 5, 2008. (Doc. #1830.) In response to Defendants' objections
28 to Plaintiffs' request for interest accruing from October 22, 2008, on attorneys' fees and

1 non-taxable costs incurred after December 5, 2008, Plaintiffs had agreed “that it would be
2 unjust to charge interest on fees and costs which have not yet been incurred” and
3 proposed that the Court award interest on those fees and costs from the date it entered its
4 decision on that portion of fees and costs. (Doc. #1822 at 6.) In response to Defendants’
5 Rule 60 motion, Plaintiffs agreed that interest should run: (a) from October 22, 2008, on
6 fees and costs incurred before October 22, 2008; (b) from April 20, 2009, on fees and
7 costs incurred on October 22, 2008, through December 5, 2008; and (c) from July 2,
8 2009,¹ on fees and costs incurred after December 5, 2008. (Doc. #1834.)

9 On July 15, 2009, with their response to Defendants’ Rule 60 motion, Plaintiffs
10 also moved for Rule 60 relief regarding their inadvertent exclusion of the previously
11 requested \$7,604.70 in fees incurred by ACLU Arizona. (Doc. #1835.) On July 29,
12 2009, Defendants filed a Combined Response to Plaintiffs’ Motion for Rule 60 Relief and
13 Reply in Support of Their Motion for Rule 60 Relief in which they noted Plaintiffs had
14 reverted back to an erroneous amount for costs incurred after December 5, 2008, and
15 otherwise did not object to Plaintiffs’ breakdown of fees and costs for the three relevant
16 periods identified by the Court. (Doc. #1842.)

17 IT IS THEREFORE ORDERED that Defendants’ Motion for Rule 60 Relief (doc.
18 #1830) and Plaintiffs’ Motion for Rule 60 Relief (doc. #1835) are granted.

19 IT IS FURTHER ORDERED that the July 2, 2009 Judgment on attorneys’ fees
20 (doc. #1828) is vacated.


21 IT IS FURTHER ORDERED that the Clerk enter a corrected judgment pursuant to
22 Fed. R. Civ. P. 54(d) and LRCiv 54.2 in favor of Plaintiffs against Defendants in the
23 amount of **\$1,193,815.03** for attorneys’ fees and **\$121,154.91** for non-taxable costs plus
24 interest at the federal rate from October 22, 2008, until paid.
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27 ¹Although the July 2, 2009 Order was signed and dated on July 1, 2009, it was filed
28 on July 2, 2009, and judgment was entered on July 2, 2009. (Doc. ##1827, 1828.)

1 IT IS FURTHER ORDERED that the Clerk enter a corrected judgment pursuant to
2 Fed. R. Civ. P. 54(d) and LRCiv 54.2 in favor of Plaintiffs against Defendants in the
3 amount of **\$45,676.60** for attorneys' fees and **\$2,066.86** for non-taxable costs plus interest
4 at the federal rate from April 20, 2009, until paid.

5 IT IS FURTHER ORDERED that the Clerk enter a corrected judgment pursuant to
6 Fed. R. Civ. P. 54(d) and LRCiv 54.2 in favor of Plaintiffs against Defendants in the
7 amount of **\$104,634.25** for attorneys' fees and **\$4,970.52** for non-taxable costs plus
8 interest at the federal rate from July 2, 2009, until paid.

9 DATED this 30th day of July, 2009.

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Neil V. Wake
United States District Judge