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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SHAWN BEDWELL, and individual,
Plaintiff,
v.
JOHN HAMPTON, Trustee of the
Hampton Family Bypass Trust; et al.,
Defendants.

Case No.: 22cv138-LL-BGS

**ORDER GRANTING IN PART
MOTION FOR DEFAULT
JUDGMENT [ECF No. 26];**

**ORDER GRANTING IN PART AND
DENYING IN PART MOTION FOR
ATTORNEYS' FEES AND COSTS
[ECF No. 28]**

This matter is before the Court on Plaintiff's Motion for Default Judgment against Defendants John Hampton and Welcome Back Foundation. ECF No. 26. Upon consideration of the pleadings, the Motion, and Defendants' lack of appearance in this case or opposition to the Motion, the Motion for Default Judgment is **GRANTED IN PART**. Also before the Court is Plaintiff's Motion for Attorneys' Fees and Costs. ECF No. 28. For the reasons stated herein Plaintiff's Motion for Attorneys' Fees is **GRANTED IN PART AND DENIED IN PART**.

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1 **I. Background**

2 On July 13, 2022, Plaintiff filed the operative Complaint in this case on behalf of
3 himself as a person with a disability to enforce the Americans with Disabilities Act
4 (“ADA”), 42 U.S.C. § 12101, et seq., and California Civil Code §§ 51-53 (the “Unruh
5 Act.”). ECF No. 11. Plaintiff alleges that on or about October 2021 and November 2021,
6 he attempted to patronize Defendants’ business, but encountered difficulties including
7 parking, signage, entryway and paths of travel. *Id.* at ¶¶ 21-32. These barriers denied
8 Plaintiff “full and equal access, and caused him difficulty, humiliation, and/or frustration.”
9 *Id.* at ¶ 23.

10 On July 1, 2022, the Court issued an Order sua sponte declining supplemental
11 jurisdiction over Plaintiff’s state law claims, thereby dismissing Plaintiff’s state law claims
12 under the Unruh Act. ECF No. 10. On January 3, 2023, the Court denied Plaintiff’s Motion
13 for Reconsideration of the dismissal of Plaintiff’s state law claims. ECF No. 19.
14 Accordingly, the only claim remaining under Plaintiff’s operative Complaint is for
15 violation of the ADA.

16 The docket reflects that Defendants were served with a copy of the summons and
17 Complaint on November 3, 2022 and November 4, 2022. ECF Nos. 12, 13. Despite being
18 properly served, Defendants failed to timely file an answer. On January 4, 2023, Plaintiff
19 requested entry of default against Defendant John Hampton, which the Clerk granted on
20 January 5, 2023. ECF Nos. 20, 22. On January 5, 2023, Plaintiff requested entry of default
21 against Defendant Welcome Back Foundation, which the Clerk granted on January 6, 2023.
22 ECF Nos. 23, 25.

23 On February 1, 2023, Plaintiff moved for default judgment against Defendants John
24 Hampton and Welcome Back Foundation. ECF No. 26. Plaintiff seeks injunctive relief and
25 attorneys’ fees and costs under the ADA and the Unruh Civil Rights Act. *Id.* Plaintiff also
26 seeks “damages under the Unruh Civil Rights Act, which provides for actual damages and
27 statutory minimum damages of \$4,000 per each offense.” ECF No. 26-1 at 11, 21. Plaintiff
28 has also submitted in support of the Motion for Default Judgment a Motion for Attorneys’

1 Fees and Costs. ECF No. 28.

2 **II. Legal Standard**

3 Pursuant to Federal Rule of Civil Procedure 55(b)(2), the Court may enter a default
4 judgment when the Clerk of the Clerk, under Rule 55(a), has previously entered a party's
5 default. Fed. R. Civ. P. 55(b). Entry of default judgment is within the trial court's
6 discretion. *See Eitel v. McCool*, 782 F.2d 1470, 1471 (9th Cir. 1986). The Ninth Circuit
7 has set forth seven factors that a court should consider when evaluating a motion for default
8 judgment: "(1) the possibility of prejudice to the plaintiff, (2) the merits of plaintiff's
9 substantive claim, (3) the sufficiency of the complaint, (4) the sum of money at stake in the
10 action, (5) the possibility of a dispute concerning material facts, (6) whether the default
11 was due to excusable neglect, and (7) the strong policy underlying the Federal Rules of
12 Civil Procedure favoring decisions on the merits." *Id.* at 1471-72. Additionally, in
13 determining the merits of a motion for default judgment, the well-pleaded factual
14 allegations are taken as true, except as to allegations regarding the amount of damages. *See*
15 *Fair Housing of Marin v. Combs*, 285 F.3d 899, 906 (9th Cir. 2002).

16 **III. Application of Default Judgment Factors under *Eitel***

17 In this action, the *Eitel* factors weigh in favor of entering default judgment against
18 Defendants. However, the Court, in its discretion, reduces the amount of attorneys' fees
19 and costs sought by Plaintiff for the reasons set forth below. Additionally, the Court
20 **DENIES** Plaintiff's request for a "statutory penalty assessment of \$12,000" under the
21 Unruh Civil Right Act because the Court already declined supplemental jurisdiction over
22 the state law claim.

23 **a. Possibility of Prejudice to Plaintiff**

24 If denial of default judgment will likely leave plaintiff without recourse for recovery,
25 such potential prejudice to plaintiff favors granting default. *PepsiCo, Inc. v. Cal. Sec. Cans*,
26 238 F. Supp. 2d 1172, 1177 (C.D. Cal. 2002); *Landstar Ranger, Inc. v. Parth Enters.*, 725
27 F. Supp. 2d 916, 920 (C.D. Cal. 2010). Here, Plaintiff contends that the architectural
28 barriers resulting from Defendants' failure to comply with the ADA constitutes

1 discrimination and denial of equal access. Defendants have not appeared and have refused
2 to remedy the barriers to access. Plaintiff has no other means to obtain relief and will likely
3 suffer prejudice without the grant of default judgment.

4 **b. Merits of Substantive Claim/Sufficiency of the Complaint**

5 “[U]pon default the factual allegations of the complaint, except those relating to the
6 amount of damages will be taken as true.” *Geddes v. United Fin. Grp.*, 559 F.2d 557, 560
7 (9th Cir. 1977). The court must examine the complaint to determine whether plaintiff
8 adequately pled a claim for relief. *Danning v. Lavine*, 572 F.2d 1386, 1388 (9th Cir. 1978).
9 An adequately pled complaint “must contain sufficient factual matter, accepted as true, to
10 ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678
11 (2009) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)).

12 **i. ADA Claim**

13 In order to establish a discrimination claim under Title III of the ADA, plaintiff must
14 show that: (1) he is a qualified individual with a disability; (2) the defendant is a private
15 entity that owns, leases, or operates a place of public accommodation¹; and (3) the plaintiff
16 was denied public accommodations by the defendant because of her disability. 42 U.S.C.
17 §§ 12182(a)-(b); *Molski v. M.J. Cable, Inc.*, 481 F.3d 724, 730 (9th Cir. 2007). In order to
18 succeed on an ADA claim of discrimination, the Plaintiff must also prove that the defendant
19 failed to (a) remove architectural barriers, and (b) such removal was readily achievable.
20 *See* 42 U.S.C. § 12182(b)(2)(A)(iv) (noting that discrimination under Title III includes “a
21 failure to remove architectural barriers...in existing facilities...where such removal is
22 readily achievable.”); *see also Vogel v. Rite Aid. Corp.*, 992 F. Supp. 2d 998, 1008 (C.D.
23 Cal. Jan. 17, 2014) (abrogated on other grounds). Taking the allegations of the complaint
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25
26 ¹ The types of private entities that are considered “public accommodations” include hotels,
27 restaurants, theaters, places of exhibition or entertainment, auditoriums, places of public
28 gathering, stores, professional offices, terminals, places of recreation, schools, care centers
and places of exercise and recreation. 42 U.S.C. § 12181(7).

1 as true, Plaintiff has shown the elements have been met.

2 Here, Plaintiff alleges that he is paralyzed and needs a wheelchair or walker for
3 mobility. Bedwell Decl. at ¶ 3; FAC at ¶ 1. As a result, Plaintiff is “disabled” within the
4 meaning of the ADA. *See* 42 U.S.C. § 12101(1)(A). Second, it is alleged that Defendant
5 John Hampton, Trustee of the Hampton Family Bypass Trust, owned the Property that
6 Plaintiff alleges he was denied public accommodations because of his disability. FAC at ¶
7 2. Further, Plaintiff alleges that Defendant Welcome Back Foundation “is/was a lessee of
8 the Property, owns/owned the business named ‘Do-Gooder Thrift Shop,’ and has/had
9 control over its business at all relevant times.” *Id.* at ¶ 4. Further, it is alleged that at this
10 location Defendants operate an accommodation for the public. *Id.* at ¶ 5. Thus, Plaintiff has
11 demonstrated that Defendants’ facility, is an establishment that qualifies as a place of
12 public accommodation. *See* 42 U.S.C. § 12181(7)(B); FAC ¶¶ 4, 5. Accordingly, the first
13 two requirements are satisfied.

14 Plaintiff has also established that he encountered architectural barriers that worked
15 to discriminate against him on account of his physical disability. Bedwell Decl. at ¶ 6; *see*
16 *also* FAC at ¶ 14-24. Specifically, Plaintiff alleges that he encountered “barriers related to
17 parking, signage, entryways, and paths of travel.”² FAC at ¶ 20; Bedwell Decl. at ¶ 6.
18 Plaintiff Bedwell states in his declaration that he encountered these architectural barriers
19 and they interfered with and denied him the ability to use a public place of accommodation
20 and business establishment. FAC at ¶ 16. Plaintiff further notes that the barriers deter him
21 from patronizing the Property, but he intends to return. *Id.* at ¶ 27. Accounting for the facts
22 alleged in the Complaint, Plaintiff has satisfied his burden of demonstrating the existence
23 of architectural barriers at Defendants’ Property.

24 With respect to the removal of the barriers, Plaintiff asserts that Defendants can
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27 ² The FAC also includes additional barriers, conditions and/or violations that Plaintiff was
28 informed by an investigator remain at the Property for mobility-impaired users like him.
FAC at ¶ 25.

1 “remove these barriers without much expense or difficulty” and that their removal is
2 “readily achievable.” *Id.* at ¶ 29. These allegations are sufficient to satisfy Plaintiff’s
3 burden on this issue. *See Vogel*, 992 F. Supp. 2d at 1011.

4 Accordingly, taking Plaintiff’s allegations as true, the Court finds that Plaintiff has
5 established a claim for discrimination under Title III of the ADA.

6 **ii. Unruh Act Claim**

7 The Court has declined supplemental jurisdiction over Plaintiff’s state law claims,
8 thereby dismissing Plaintiff’s state law claims under the Unruh Act. ECF Nos. 10, 19.
9 Notwithstanding this, Plaintiff, in the Motion for Default Judgment, seeks a “statutory
10 penalty assessment of \$12,000” under the Unruh Civil Rights Act. Plaintiff’s request for a
11 “statutory penalty assessment of \$12,000” under the Unruh Civil Right Act is **DENIED**
12 because the Court has already declined supplemental jurisdiction over the state law claims.

13 Even though the Court **DENIES** Plaintiff’s request for statutory fees on the Unruh
14 Act claim, the Court concludes that the allegations in the Complaint sufficiently allege that
15 Defendants violated the ADA. Accordingly, the Court concludes that Plaintiff has
16 adequately pled a claim for relief and finds this factor weighs in favor of entering default
17 judgment against Defendants.

18 **c. The Sum of Money at Stake**

19 Courts “consider the amount of money at stake in relation to the seriousness of
20 Defendant’s conduct.” *PepsiCo, Inc. v. Cal. Sec. Cans*, 238 F. Supp. 2d 1176. The Court
21 has already **DENIED** Plaintiff’s request for a statutory penalty in connection with the
22 Unruh Act Claim. In connection with Plaintiff’s ADA claim, Plaintiff seeks injunctive
23 relief and attorneys’ fees and costs. As discussed in more detail below, the Court has
24 exercised its discretion to reduce the amount of attorneys’ fees and costs sought by
25 Plaintiff. However, on balance, the Court finds that this factor also weighs in favor of entry
26 of default judgment.

27 **d. The Possibility of a Dispute Concerning Material Facts**

28 Upon entry of default, all well-pleaded facts in the complaint are taken as true,

1 except those relating to damages. *Televideo v. Heidenthal*, 826 F. 2d 915, 917-18 (9th Cir.
2 1987); *Geddes*, 559 F.2d at 560. Since Plaintiff has supported his factual allegations with
3 ample evidence, and “defendant has made no attempt to challenge the accuracy of the
4 allegations in the complaint,” no factual dispute precludes entry of default judgment.
5 *Landstar*, 725 F. Supp. 2d at 921-22. Therefore, this factor weighs in favor of entry of
6 default.

7 **e. Whether the Default was Due to Excusable Neglect**

8 Defendants were properly served with the summons and Complaint. ECF Nos. 12,
9 13. Therefore, the default is not due to excusable neglect. *See, e.g., Craigslist, Inc. v.*
10 *Kerbel*, No. 11-3309, 2012 WL 3166798 (N.D. Cal. Aug. 2, 2012) (defendant’s default was
11 unlikely due to excusable neglect considering fact that “Plaintiff’s served not only the
12 summons and complaint but also the request for entry of default on Defendant but still
13 received no response”). Accordingly, this factor favors default judgment.

14 **f. The Strong Policy Underlying the Federal Rules of Civil Procedure**

15 “Defendant’s failure to answer Plaintiff[’s] complaint makes a decision on the merits
16 impractical, if not impossible.” *PepsiCo*, 238 F. Supp. 2d at 1177. Here, Defendant has
17 failed to answer or otherwise responds to the operative Complaint, but this does not
18 preclude the Court from entering default judgment against it. *Id.*

19 In light of the above, Plaintiff’s Motion for Default Judgment is **GRANTED IN**
20 **PART**. The Motion for Default Judgment is **GRANTED**, but Plaintiff’s request for
21 statutory fees under the Unruh Act is **DENIED**.

22 **IV. Award to Plaintiff**

23 Plaintiff asks for statutory damages for the Unruh Act claim, injunctive relief for the
24 ADA claim, and attorneys’ fees and costs. Each request will be discussed in turn below.

25 **a. Damages**

26 For the reasons already stated in this Order, Plaintiff’s request for statutory damages
27 under the Unruh Act is **DENIED**.

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1 **b. Injunctive Relief**

2 Plaintiff asks for injunctive relief under the ADA. Specifically, Plaintiff requests that
3 Defendants comply with the Americans with Disabilities Act to remove the existing access
4 violations at the Property. FAC at ¶ 50, Prayer for Relief. Plaintiff is entitled to the
5 injunctive relief compelling Defendants to remove the barriers at the Property so that the
6 facility is readily accessible to and usable by individuals with disabilities. *See Vogel*, 992
7 F. Supp. 2d at 1015 (“[I]njunctive relief is proper when architectural barriers at defendant’s
8 establishment violate the ADA and the removal of the barriers is readily achievable.”); *see*
9 *also Moeller v. Taco Bell Corp.*, 816 F. Supp. 2d 831, 850 (N.D. Cal. Oct. 5, 2011).
10 Accordingly, Plaintiff’s request for injunctive relief under the ADA is **GRANTED**.

11 **c. Attorneys’ Fees and Costs**

12 The Court’s final task is to determine an award of attorneys’ fees and costs. Plaintiff
13 filed a Motion for Attorneys’ Fees (ECF No. 28) in which Plaintiff seeks attorneys’ fees in
14 the amount of \$13,021, covering 30.4 hours of work, and costs in the amount of \$1,057.14,
15 for a total award of \$14,078.14. ECF No. 28-1 at 10, 15, 16; *see also* Hakimi Decl. ¶ 10.
16 Pursuant to 42 U.S.C. § 12205 a plaintiff who prevails on claims brought under the ADA
17 may recover attorney’s fees and costs as determined by the court. The fee award is
18 calculated using the lodestar method. *Ferland v. Conrad Credit Corp.*, 244 F.3d 1145, 1149
19 n.4 (9th Cir. 2001); *see also Vogel v. Harbor Plaza Ctr., LLC*, 893 F.3d 1152, 1161 (9th
20 Cir. 2018). “The ‘lodestar’ is calculated by multiplying the number of hours the prevailing
21 party reasonably expended on the litigation by a reasonable hourly rate.” *Morales v. City*
22 *of San Rafael*, 96 F.3d 359, 363 (9th Cir. 1996) (citing *McGrath v. Cty. of Nevada*, 67 F.3d
23 248, 252 (9th Cir. 1995)). “[T]he fee applicant bears the burden of establishing entitlement
24 to an award and documenting the appropriate hours expended and hourly rate.” *Hensley v.*
25 *Eckerhart*, 461 U.S. 424, 437 (1983). Further, the Ninth Circuit has made clear that
26 Plaintiffs requesting attorneys’ fees must demonstrate that the hourly rates requested are
27 reasonable vis-à-vis the rates charged in “the forum in which the district court sits.”
28 *Gonzalez v. City of Maywood*, 729 F.3d 1196, 1205-06 (9th Cir. 2013) (quoting *Prison*

1 *Legal News v. Schwarzenegger*, 608 F.3d 446, 454 (9th Cir. 2010)); *see also* *Jordan v.*
2 *Multnomah Cnty.*, 815 F.2d 1258, 1261-63 (9th Cir. 1987) (“The fee applicant has the
3 burden of producing satisfactory evidence, in addition to the affidavits of its counsel, that
4 the requested rates are in line with those prevailing in the community for similar services
5 of lawyers of reasonably comparable skill and reputation.”).

6 Here, for the reasons set forth below, the Court finds that Plaintiff has not met his
7 burden to recover the full sum of attorneys’ fees sought at the proposed hourly rates. *Vogel*
8 *v. Harbor Plaza Ctr., LLC*, 893 F.3d at 1160 (“In a case in which a defendant fails to appear
9 or otherwise defend itself, the burden of scrutinizing an attorney’s fee request – like other
10 burdens – necessarily shifts to the court.”). The amount of an attorneys’ fees award is
11 within the wide discretion of the trial court and will not be disturbed absent abuse of
12 discretion. *Seymour v. Hull & Moreland Eng’g*, 605 F.2d 1105, 1116 (9th Cir. 1979).

13 Plaintiff’s request for attorneys’ fees consists of \$2,475.00 for Anoush Hakimi (5
14 hours at \$495 per hour), \$4,603.50 for Peter Shahriari (9.3 hours at \$495 per hour), and
15 \$5,312.50 for Cody Cooper (12.5 hours at \$425 per hour). *See* Declaration of Anoush
16 Hakimi in Support of Plaintiff’s Motion for Attorneys’ Fees (“Hakimi Decl.,” ECF No. 28-
17 2) ¶¶ 10-15; *see also* Billing Statement at 28-4. Additionally, Plaintiff seeks fees in the
18 amount of \$437.50 for Sharon Kawas, a paralegal (2.5 hours at \$175 per hour), and \$192.50
19 Martin Hernandez, a case manager (1.1 hours at \$175 per hour). *Id.* These rates are
20 supported by the declaration of Mr. Hakimi, which details each person’s experience. *See*
21 Hakimi Decl. Plaintiff also relies on the Real Rate Report to justify his requested rates. *See*
22 *id.* at ¶ 16; *see also* ECF No. 28-5. Plaintiff contends that his requested rates fall below the
23 ranges the Real Estate Report suggests for partners and associates in Los Angeles. Mot. for
24 Attorneys’ Fees at 13.

25 **i. Hourly Rate**

26 To determine the reasonable hourly rate, the Court looks to the “rate prevailing in
27 the community for similar work performed by attorneys of comparable skill, experience,
28 and reputation.” *Camacho v. Bridgeport Fin., Inc.*, 523 F.3d 973, 979 (9th Cir. 2008)

1 (quoting *Barjon v. Dalton*, 132 F.3d 496, 502 (9th Cir. 1997)). In this case, the relevant
2 community is the Southern District of California because it is “the forum in which the
3 district court sits.” *Id.* The burden is on the party requesting attorney’s fees to “produce
4 satisfactory evidence.” *Blum v. Stenson*, 465 U.S. 886, 895 n.11 (1984). Evidence that the
5 Court should consider includes “[a]ffidavits of the plaintiffs’ attorney and other attorneys
6 regarding prevailing fees in the community, and rate determinations in other cases,
7 particularly those setting a rate for the plaintiffs’ attorney.” *United Steelworkers of Am. v.*
8 *Phelps Dodge Corp.*, 896 F.2d 403, 407 (9th Cir. 1990); *see also Blum*, 465 U.S. at 895
9 n.11.

10 Plaintiff’s counsel argue that their requested rates are reasonable because the rates
11 are consistent with approved hourly rates for similar ADA cases in the Central District of
12 California. Mot. for Attorneys’ Fees at 11-13. The Court disagrees that these rates are
13 reasonable in the present case for two reasons: (1) counsel base their requested rate on the
14 prevailing rate in the Central District of California, which is not the relevant community in
15 this action and has a notably higher prevailing rate than the Southern District of California;
16 and (2) counsel’s requested rates in fact exceed the prevailing fees for similar ADA cases
17 in both the Central District of California and the Southern District of California.

18 First, Plaintiff’s reliance on rates in the Central District of California is unfounded.
19 *Id.* at 12-13; Here, the relevant community is the Southern District of California, where
20 attorneys do not command the same substantial rates as in the Central District. *Camacho*,
21 523 F.3d at 979. Plaintiff includes the 2018 Wolters Kluwer Real Rate Report as an exhibit
22 to his Motion and states that the report is often referenced by federal courts in the Central
23 District of California in connection with attorneys’ fee motions. Hakimi Decl. ¶ 16; *see*
24 Mot. for Attorneys’ Fees, Ex. 2 (ECF No. 28-5). Plaintiff cites to median hourly rates for
25 attorneys in Los Angeles, California, to justify his requested fees. *See* Mot. for Attorneys’
26 Fees at 13. However, the Real Rate Report evidences that rates in Los Angeles are
27 significantly higher than rates in San Diego, California. Mot. for Attorneys’ Fees, Ex. 2 at
28 14, 17. The Real Rate Report notes that the median hourly rate in Los Angeles is \$650.00

1 for a litigation partner and \$510.00 for an associate, while the median hourly rates in San
2 Diego for a litigation partner and associate are \$370.00 and \$195.00, respectively. *Id.* As
3 this Court sits in San Diego, the Court will only consider the median hourly rates for San
4 Diego attorneys from the Real Rate Report. *See Camacho*, 523 F.3d at 979.

5 Moreover, the rates of counsel for Plaintiff have often been reduced in the Central
6 District of California for prior, analogous ADA cases. In January 2022, a judge in the
7 Central District of California reduced Mr. Hakimi and Shahriari's rates from \$495.00 to
8 \$375.00 and Ms. Steven's rate from \$425.00 to \$300.00. *Pritchett v. Slauson Gas Station,*
9 *LLC*, 2022 WL 319989 at *3 (C.D. Cal. Jan. 10, 2022) ("In fact, several courts in the
10 Central District of California have substantially reduced the requested rates of these
11 attorneys and have affixed a \$300-\$375 blended rate that is commensurate with the level
12 of complexity in these run-of-the-mill ADA cases.") (citations omitted). Likewise, another
13 judge in the Central District of California found that a \$300.00 blended hourly rate was
14 more reasonable for Mr. Hakimi, Mr. Shahriari, and Ms. Steven in a similar ADA case.
15 *Machowski v. Jacmar Partners III*, 2021 WL 2980223 at *2 (C.D. Cal. May 27, 2021)
16 ("While counsel asserts that both Mr. Hakimi and Mr. Shahriari have 'extensive experience
17 and knowledge in the prosecution of disability access cases,' much of this experience was
18 not needed here as Defendant has not answered and there was no significant discovery,
19 motion practice, or hearing in this case.").

20 As in the *Machowski* case, Defendant did not appear in this case, so motion practice
21 was limited. It also appears that the facts in this case are not unique from the many other
22 cases that Mr. Hakimi and his law firm have filed in the Southern and Central Districts.
23 Notably, the issues in the instant case are not novel or complex, and Mr. Hakimi and his
24 law firm have utilized virtually identical complaints in these actions. Given the boilerplate
25 nature of the filings, the case's lack of complexity, and the Court's knowledge of the
26 prevailing market rate in this District, the Court finds that Mr. Hakimi, Mr. Shahriari, and
27 Mr. Cooper are entitled to a blended rate of \$300.00 per hour in this litigation. *See id.*

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1 **ii. Hours Claimed**

2 Plaintiff's counsel submitted an affidavit with an itemized billing statement
3 providing a breakdown of the 26.8 hours that the three attorneys assert to have expended
4 on this case. *See* Hakimi Decl.; Billing Statement. Plaintiff's counsel also seeks 3.6 hours
5 for time spent by the paralegal and case manager on this matter. *Id.* "In determining the
6 appropriate number of hours to be included in a lodestar calculation, the district court
7 should exclude hours that are 'excessive, redundant, or otherwise unnecessary.'" *McCown*
8 *v. City of Fontana*, 565 F.3d 1097 (9th Cir. 2009).

9 As an initial matter, the Court finds that five different people billing on this type of
10 routine ADA case, which lacks complexity, is excessive. The Court finds it appropriate to
11 strike the 3.6 hours billed by the paralegal and the case manager as that work could have
12 been done by the three attorneys who also billed on this case. Accordingly, the Court
13 declines Plaintiff's request to recover any fees for the time spent by Ms. Kawas and Mr.
14 Hernandez.

15 Second, the Court finds that the 26.8 hours billed to this matter by the three attorneys
16 is also excessive given the boilerplate nature of the Complaint and the fact that there was
17 no opposition to the motion for default. *See, e.g., Machowski*, 2021 WL 2980223, at *2. In
18 cases involving the same attorneys – Mr. Hakimi and Mr. Shahriari – courts in the Central
19 District have found that "considering how often Plaintiff's counsel files nearly identical
20 complaints and the formulaic nature of the filings," the time spent before filing the
21 complaint should be reduced to only four or five hours." *See Shayler v. 1310 PCH LLC*,
22 No. CV 20-10751 GW (GJSx), 2021 WL 5024393, at *3 (C.D. Cal. Sept. 30, 2021)
23 (reducing Mr. Hakimi and Mr. Shahriari's pre-complaint hours from 9 to 4); *see also*
24 *Walker v. Gateway Plaza LLC*, No. CV 21-255 GW (SKx), 2021 WL 6103372, at *3 (C.D.
25 Cal. Oct. 13, 2021) (reducing Mr. Hakimi and Mr. Shahriari's pre-complaint hours from
26 8.6 to 4.6). Given the similarly formulaic nature of this case, the Court will reduce the
27 hours billed before Plaintiff filed his Complaint from 8.7 hours (billed by both Mr. Hakimi
28 and Mr. Shahriari) to 4 hours total. *Shayler*, 2021 WL 5024393, at *3. Additionally, the

1 Court finds that Mr. Cooper’s time billed for “Input[ting] time into Timesolv)” (.8 at a rate
2 of \$425) is unnecessary and excessive. Accordingly, the Court strikes Mr. Cooper’s entry
3 for his time spent billing his time. Similarly, the Court finds it excessive that Mr. Cooper
4 spent 6.4 hours preparing a motion for default judgment between the dates January 27,
5 2023 and January 31, 2023, and then after Mr. Hakimi reviewed it, Mr. Cooper spent
6 another .5 hours to “finalize and file motion for default judgment.” ECF No. 28-4 at 4. The
7 Court finds this amount of time to prepare a motion for default judgment to be excessive
8 and redundant. Therefore, the Court reduces Mr. Cooper’s hours spent on preparing the
9 motion for default judgment 6.9 hours to 4 hours.

10 With the entries above subtracted and reduced, the Court finds that 15.5 hours of
11 work for this case is reasonable for litigating this case through a successful grant of motion
12 for default judgment. After this reduction, and with the fees at a blended rate of \$300.00,
13 the Court awards Plaintiff attorneys’ fees in the amount of \$4,650.00.

14 **iii. Costs**

15 Plaintiff seeks costs of \$90.00 for an investigator, \$402.00 in filing fees, and \$565.14
16 in service costs. *Id.* The Court finds the \$402.00 filing fee and the \$565.14 service-of-
17 process fee reasonable and recoverable and awards Plaintiff these costs. However, the
18 Court declines to award Plaintiff’s \$ 90.00 request for the investigative fees. Although
19 some district courts have awarded these costs, *see, e.g., Johnson v. In Suk Jun*, No. 19-CV-
20 06474-BLF, 2020 WL 6507995, at *10 (N.D. Cal. Nov. 5, 2020) (including investigation
21 costs in litigation expenses), Plaintiff has not provided any authority to support the
22 assertion that he is entitled to these costs, *see Langer v. Murad Enterprises, LLC*, 20-cv-
23 34-MMA (BLM), ECF No. 15 at 12 n.3 (S.D. Cal. June 2, 2020) (“Plaintiff fails to provide
24 any authority, nor is the Court aware of any such authority, indicating costs for
25 ‘investigator’ fees are recoverable.”). Therefore, the Court awards Plaintiff \$967.14 in
26 costs.

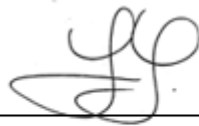
27 **V. Conclusion**

28 Consistent with the foregoing discussion, Plaintiff’s Motion for Default Judgment is

1 **GRANTED IN PART.** Plaintiff's Motion for Attorneys' Fees is **GRANTED IN PART**
2 **AND DENIED IN PART.** The Court **AWARDS** Plaintiff \$5,617.14 in attorneys' fees and
3 costs. It is further **ORDERED** that Clerk of Court shall enter **JUDGMENT** in favor of
4 Plaintiff and against Defendants.

5 **IT IS SO ORDERED.**

6 Dated: April 26, 2023



Honorable Linda Lopez
United States District Judge

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