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**United States District Court
Central District of California**

VENICE BAKING COMPANY,
Plaintiff,
v.
SOPHAST SALES AND MARKETING
LLC, a Maryland Limited Liability
Company; and DOES 1–10, inclusive,
Defendants.

Case No. 2:16-cv-6136-ODW (KS)
**ORDER GRANTING IN PART AND
DENYING IN PART DEFENDANT’S
MOTION FOR ATTORNEYS’ FEES
[32]**

On January 26, 2017, the Court entered a judgment in Defendant’s favor. (ECF No. 30.) On February 8, 2017, Defendant filed a motion for attorneys’ fees seeking \$41,999 in attorneys’ fees associated with its work prior to the motion, and \$7,560 in attorneys’ fees associated with the motion. (ECF No. 32.)

On February 16, 2017, Plaintiffs filed a notice of non-opposition to Defendant’s motion for attorneys’ fees in the amount of \$41,999. (ECF No. 40.) In that notice of nonopposition, Plaintiff stated that “[b]y not opposing [Defendant’s] fees motion, the award of at least \$7,560 sought by [Defendant] associated with preparing a *reply* brief is not necessary.” (Not. of Nonopposition 1 (emphasis added).) However, Plaintiff appears to have misunderstood Defendant’s motion, which asks for \$7,560 in

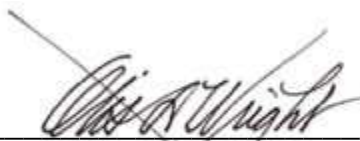
1 attorneys' fees for preparing the motion *and* the eventual reply to the motion. (Leff
2 Decl. ¶ 16, ECF No. 32-1.)

3 The fees already incurred in the preparation of the pending motion are \$1,050
4 for Attorney Leff (2 hours x \$525) and \$2,730 for Attorney Russell (7 hours x \$390)
5 for a total of \$3,780. (*Id.*) Defendant estimates that fees associated with the reply will
6 also be \$3,780. (*Id.*) The Court agrees that Plaintiff's nonopposition makes the
7 potential \$3,780 in attorneys' fees associated with the reply unrecoverable. However,
8 Defendant is entitled to recover the attorneys' fees associated with preparing the
9 motion itself. The attorneys' fees associated with preparing the motion were made
10 necessary by Plaintiff's alleged failure to stipulate to the proposed attorneys' fees at
11 the meet and confer. (*Id.* ¶ 18.) Had Plaintiff merely agreed to the proposed
12 attorneys' fees at the meet and confer, the fees associated with preparing the motion
13 could have been avoided. Instead, Plaintiff waited until after the motion was filed to
14 voice its acceptance of the proposed attorneys' fees.

15 The Court will award \$41,999 in attorneys' fees plus the cost of preparing the
16 motion (\$3,780) for a total of \$45,779. This amount *does not include* the proposed
17 cost of the reply, which was avoided by Plaintiff's nonopposition.

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19 **IT IS SO ORDERED.**

20 February 24, 2017

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24 **OTIS D. WRIGHT, II**
25 **UNITED STATES DISTRICT JUDGE**
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