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10 **UNITED STATES DISTRICT COURT**  
11 **EASTERN DISTRICT OF CALIFORNIA**  
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13 J&J SPORTS PRODUCTIONS, INC.,

14 Plaintiff,

15 v.

16 PETRICE M. MARINI, et al.,

17 Defendants.  
18

**CASE NO. 1:16-cv-0477-AWI-JLT**

**ORDER GRANTING IN PART  
PLAINTIFF’S MOTION FOR  
ATTORNEY FEES**

19 **I. Introduction**

20 On April 6, 2016, Plaintiff J&J Sports Productions, Inc. (“Plaintiff”), brought suit against  
21 Petrice Marini and Vincent Marini, individually and doing business as Vinny’s Bar  
22 (“Defendants”), alleging that Defendants unlawfully intercepted a program for which Plaintiff  
23 held exclusive distribution rights. On August 2, 2017, this Court granted Plaintiff’s motion for  
24 partial summary judgment as to Plaintiff’s unlawful interception and conversion claims. Doc. 45;  
25 *see* 47 U.S.C. § 553. On March 15, 2018, this Court granted in part Plaintiff’s motion for  
26 damages. Doc. 58. This action now proceeds on Plaintiff’s motion for attorney fees and costs.  
27 Defendants oppose that motion. For the following reasons, Plaintiff’s motion will be granted in  
28 part.

1 **II. Discussion**

2 A. Attorneys' Fees

3 The Court found that Defendants violated 47 U.S.C. § 553(a)(1) by receiving a cable  
4 communication without authorization. Doc. 45. In such a situation a district court “may,” but is  
5 not required to, “direct recovery of full costs, including awarding reasonable attorneys’ fees to an  
6 aggrieved party who prevails.” 47 U.S.C. § 553(c)(2)(C); cf. 47 U.S.C. § 605(e)(3)(B)(iii)  
7 (requiring a court to award attorney fees to an aggrieved party who prevails when unlawful  
8 interception is by means of satellite). Plaintiff prevailed on its claims.

9 The Ninth Circuit utilizes a “lodestar” method to compute reasonable attorneys' fees,  
10 which represents the number of hours reasonable expended multiplied by a reasonable hourly  
11 rate. *Ferland v. Conrad Credit Corp.*, 244 F.3d 1145, 1149 n. 4 (9th Cir.2001) (citing *Caudle v.*  
12 *Bristow Optical Co., Inc.*, 224 F.3d 1014, 1028 (9th Cir.2000); *Morales v. City of San Rafael*, 96  
13 F.3d 359, 363 (9th Cir.1996)). Consequently, “counsel bears the burden of submitting detailed  
14 time records justifying the hours claimed to have been expended.” *Chalmers v. City of Los*  
15 *Angeles*, 796 F.2d 1205, 1210 (9th Cir.1986) (citing *Hensley v. Eckerhart*, 461 U.S. 424, 433  
16 (1983)). If the documentation of hours is inadequate, or if the hours expended are excessive and  
17 unnecessary, the Court may reduce the number of hours claimed. *Chalmers*, 796 F.2d at 1210;  
18 *Hensley*, 461 U.S. at 433.

19 Plaintiff seeks attorneys’ fees in the amount of \$19,855.00. That figure breaks down to:  
20 6.55 hours at \$500.00 per hour for Thomas P. Riley, an attorney licensed to practice in California  
21 since 1998; 47 hours at \$300.00 per hour for an unidentified research attorney; and 24.8 hours at  
22 \$100.00 per hour for an unidentified administrative assistant. Mr. Riley “specializes in the civil  
23 prosecution of commercial signal piracy claims on behalf of promoters and closed-circuit  
24 distributors of ... major televised sporting events and has done so since 1994.” Declaration of  
25 Thomas P. Riley, Doc. 59-1 (“Riley Decl.”) at ¶ 4. No information is supplied regarding the  
26 unidentified research attorney or the administrative assistant.

27 A district court is required to determine a reasonable rate for the services provided by  
28 examining the prevailing rates in the community, charged by “lawyers of reasonably comparable

1 skill, experience, and reputation.” *Sanchez v. Frito Lay*, 2015 WL 4662535, \*17 (E.D. Cal. Aug.  
2 5, 2016) (quoting *Cotton v. City of Eureka*, 889 F.Supp.2d 1154, 1167 (N.D. Cal 2012)). “The  
3 ‘relevant community’ for the purposes of determining the reasonable hourly rate is the district in  
4 which the lawsuit proceeds.” *Sanchez*, 2015 WL 4662535, \*17 (quoting *Barjon v. Dalton*, 132  
5 F.3d 496, 500 (9th Cir.1997)); accord *Gonzalez v. City of Maywood*, 729 F.3d 1196, 1205 (9th  
6 Cir. 2013). When a case is filed in the Fresno Division of the Eastern District of California, the  
7 hourly rate is compared against attorneys practicing in the Fresno Division of the Eastern District  
8 of California. See *Munoz v. Giumarra Vineyards Corp.*, 2017 WL 2665075, \* 17 (E.D. Cal. June  
9 21, 2017); *Nadarajah v. Holder*, 569 F.3d 906, 917 (9th Cir. 2009). In the Fresno Division of the  
10 Eastern District, the hourly rate for competent and experienced attorneys is between \$250 and  
11 \$400, “with the highest rates generally reserved for those attorneys who are regarded as  
12 competent and reputable and who possess in excess of 20 years of experience.” *Silvester v.*  
13 *Harris*, 2014 WL 7239371, \*4 (E.D. Cal. Dec. 17, 2014) (collecting cases); see *Archer v.*  
14 *Gibson*, 2015 WL 9473409, \*13–14 n. 6 (E.D. Cal. Dec. 28, 2015). “This Court has determined  
15 that \$150 per hour is the ‘established rate’ for associate attorneys.” *J&J Sports Prods., Inc. v.*  
16 *Corona*, 2014 WL 1513426, \*3 (E.D. Cal. Apr. 16, 2014) adopted by 2014 WL 1767691, \*1  
17 (E.D. Cal. May 2, 2014) (citation omitted). It is equally appropriate when no information is  
18 submitted to establish an attorney’s experience.

19           This Court (and other courts) has cautioned Mr. Riley regarding billing of clerical work  
20 using administrative assistants, lack of specificity in such billing by administrative assistants, and  
21 duplicative billing by Mr. Riley and his administrative assistant in the past. *Corona*, 2014 WL  
22 1513426 at \*2 (citing *inter alia*, *Nadarajah v. Holder*, 569 F.3d 906, 921 (9th Cir. 2009); *J&J*  
23 *Sports Prods. V. Pagliaro*, 2014 WL 7140605, \*2; see *J&J Sports Prods. v. Patel*, 2018WL  
24 1609731, \*6 (D. Ariz. Apr. 3, 2018); *J&J Sports Prods. v. Pinon*, 2014 WL 3593629, \*5 (N.D.  
25 Cal. July 18, 2014). Mr. Riley has repeated the same block billing procedure, see e.g., Doc. 59-1  
26 at 14 (“Preparation, Filing, and Service of...”), and many of the billings for Mr. Riley and his  
27 administrative assistant are identical, see Doc. 59-1 at 6-15. As the Court found before, “given  
28 the lack of specificity and the clerical and duplicative nature of the tasks,” no fees will be

1 awarded for tasks completed by the administrative assistant. *Corona*, 2014 WL 1513426 at \*2. A  
2 reasonable rate for an attorney of Mr. Riley’s experience remains \$350.00 per hour. *Corona*,  
3 2014 WL 1513426 at \*3. A reasonable rate for an unidentified research attorney remains \$150.00  
4 per hour. *Id.*

5 Many of hours claimed by Mr. Riley are unreasonable, duplicative, or inadequately  
6 documented and should be reduced. Mr. Riley’s bill reflects considerable amounts of time  
7 reviewing communications to and from the court. Doc. 59-1 at 7. For every docket item—many  
8 of which were only text entries or documents filed by his firm—Mr. Riley bills expenditure of  
9 six minutes for review of that item. For instance, Mr. Riley’s billing on August 2, 2017 reads as  
10 follows:

11	08/02/17	TPR Review of the Court's Order Granting	0.10 [hours]	\$50.00
12		Plaintiffs Motion for Partial Summary Judgment		
13		and Denying Defendants' Motion to Strike (ECF #45)		
14	08/02/17	TPR Review and Execution of Service by Mail re:	0.10 [hours]	\$50.00
		Order on Motion for Partial Summary Judgment		

15 Doc. 59-1 at 13. The second item listed is a docket entry that reads, in full: “SERVICE BY  
16 MAIL: 45 Order on Motion for Summary Judgment, Order on Motion to Strike served on Petrice  
17 M. Marini, Vincent Marini. (Kusamura, W) (Entered: 08/02/2017).” *See* Court Docket. Indeed,  
18 nearly every billable item attributed to Mr. Riley is six minutes for reviewing some item in the  
19 Court’s docket. Altogether, Mr. Riley billed 6.55 hours. When considering Mr. Riley’s time  
20 entries in total, the amount of time spend essentially reviewing the docket is unreasonable, not  
21 least of which because of the limited substance of many of the entries allegedly reviewed.  
22 Having reviewed Mr. Riley’s billing, the Court concludes that he could reasonably have spent 4  
23 hours reviewing the routine documents that he itemized. \$1400.00 in attorney fees will be  
24 awarded for all of the hours billed by Mr. Riley.

25 The Court has further reviewed the hours claimed by the unidentified research attorney.  
26 Although the billings for each of the filings are clearly estimates, each appears to be a reasonable  
27 estimate. Forty seven hours for preparation of the five substantive motions, replies, and  
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1 supporting documents filed in this action is not unreasonable. \$7,050.00 in attorney fees will be  
2 awarded for all of the hours billed by the unidentified research attorney.

3 B. Costs

4 Section 553 also allows the court to direct recovery of costs to the aggrieved party who  
5 prevails. 47 U.S.C. § 553(c)(2)(C). Plaintiff's bill of costs totals \$1,479.21 and is composed of  
6 investigative fees, filing fees, service fees, courier charges, photocopying expenses, and "Court  
7 Appearance Fees." Doc. 59-1 at 16. In support of those costs, Plaintiff has submitted an invoice  
8 from its investigator in the amount of \$600.00, Doc. 59-1 at 18, and two statements from its  
9 process server in the amounts of \$150.00 and \$85.00, *id.* at 20-21. Plaintiff paid a \$400.00 filing  
10 fee to initiate this action. Doc. 1. Only those costs are appropriately documented. Plaintiff will  
11 not be awarded costs for courier charges, photocopying expenses, or court appearance fees.

12 Next, Plaintiff relies largely on district court authority from outside of this Circuit for the  
13 proposition that pre-suit investigative fees are recoverable. *See* Doc. 59 at 7 (citing, *inter alia*,  
14 *Time Warner Entertainment/Advance-Newhouse Partnership v. Worldwide Electronics, L.C.*, 50  
15 F.Supp.2d 1288, 1302 (S.D. Fla. Jan. 26, 1999). However, Courts in this Circuit routinely decline  
16 to award such costs. *J&J Sports Prods. V. Barajas*, 2016 WL 2930549, \*3 (E.D. Cal. May 19,  
17 2016) (collecting cases); *but see Pagliaro*, 2014 WL 7140605 at \* 2 (granting investigative costs  
18 without expressly identifying them in its order or discussing their propriety). This Court is  
19 unconvinced that directing the payment of pre-suit investigative costs is warranted here and will  
20 accordingly decline to award them. However, filing fees and process server costs are  
21 appropriately recovered expenses and will be awarded.

22 In sum, the Court will award costs in the amount of \$635.00.

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1 **III. Order**

2 Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff's motion for attorney  
3 fees and costs is GRANTED in part as follows:

- 4 1. Plaintiff is awarded attorneys' fees in the amount of \$7,050.00 and costs in the amount of  
5 \$635.00 for a total fees and costs award of \$7,685.00.
- 6 2. The Clerk of the Court shall enter judgment in favor of Plaintiff and against Defendants.  
7 Judgment shall be for \$7,500.00 in damages and \$7,685.00 in fees and costs.

8 The Clerk of the Court is also respectfully directed to close this case.

9  
10 IT IS SO ORDERED.

11 Dated: May 9, 2018

  
12 SENIOR DISTRICT JUDGE