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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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GENERAL CHARLES "CHUCK"  
YEAGER, (RET.), and GENERAL  
CHUCK YEAGER FOUNDATION,

NO. CIV. 2:08-102 WBS JFM

ORDER

Plaintiffs,

v.

CONNIE BOWLIN, ED BOWLIN,  
DAVID MCFARLAND, AVIATION  
AUTOGRAPHS, a non-incorporated  
Georgia business entity,  
BOWLIN & ASSOCIATES, INC., a  
Georgia corporation,  
INTERNATIONAL ASSOCIATION OF  
EAGLES, INC., an Alabama  
corporation, SPALDING  
SERVICES, INC., and DOES 1  
through 100, inclusive,

Defendants.

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Having prevailed on their motion for summary judgment (see  
Docket No. 135), defendants Connie and Ed Bowlin, Aviation  
Autographs, and Bowlin and Associates, Inc. now move for an award

1 of attorney's fees and costs pursuant to California Civil Code  
2 section 3344(a) and section 35(a) of the Lanham Act, 15 U.S.C. §  
3 1117(a).

4 Under both California and federal law, determining an  
5 award of attorney's fees begins by calculating the "'lodestar,'  
6 i.e., the number of hours reasonably expended multiplied by the  
7 reasonable hourly rate." PLCM Group v. Drexler, 22 Cal. 4th  
8 1084, 1095 (2000); Fisher v. SJB-P.D. Inc., 214 F.3d 1115, 1119  
9 (9th Cir. 2000) (citing Hensley v. Eckerhart, 461 U.S. 424, 433  
10 (1983)). Under the lodestar method, the fee applicant must  
11 provide "sufficient detail" of its billing such that the court  
12 "can evaluate what lawyers were doing and the reasonableness of  
13 the number of hours spent on those tasks." Fitzgerald v. City of  
14 Los Angeles, No. 03-1876, 2009 WL 960825, at \*8 (C.D. Cal. Apr.  
15 7, 2009) (quoting Smith v. Dist. of Columbia, 466 F. Supp. 2d  
16 151, 158 (D.D.C. 2006); see also Hensley, 461 U.S. at 437  
17 (holding the fee applicant should "maintain billing time records  
18 in a manner that will enable a reviewing court to identify  
19 distinct claims").

20 In support of their motion for attorney's fees,  
21 defendants submit a billing statement itemizing the time counsel  
22 spent on this matter each day, with over eighty percent of the  
23 entries "block billed." (See Noonan Decl. Ex. A.) Block billing  
24 is a practice where the amount of time spent by an attorney on  
25 each discrete task is not identified, but instead all hours spent  
26 during the course of a day on multiple tasks are billed together.  
27 The California State Bar's Committee on Mandatory Fee Arbitration  
28 has concluded that block billing "hides accountability" and may

1 "increase time by 10% to 30%" by lumping together tasks. See The  
2 State Bar of California Committee on Mandatory Fee Arbitration,  
3 Arbitration Advisory 03-01 (2003).

4 More importantly, the usage of block billing is  
5 fundamentally inconsistent with the lodestar method because it  
6 "render[s] it virtually impossible to break down hours," leaving  
7 the court without the ability to accurately determine whether a  
8 reasonable amount of time was spent by counsel on a discrete  
9 task. Bell v. Vista Unified Sch. Dist., 82 Cal. App. 4th 672,  
10 689 (2000); see Welch v. Metro. Life Ins. Co., 480 F.3d 942, 948  
11 (9th Cir. 2007) ("[B]lock billing makes it more difficult to  
12 determine how much time was spent on particular activities.");  
13 Bonner, 2008 WL 410260, at \*3. Without an itemization of the  
14 amount of time spent by the fee applicant on each discrete task  
15 in the case, the court cannot accurately determine whether the  
16 rates charged or hours spent by lawyers in a matter are  
17 reasonable. An excessive amount of block billing thereby forces  
18 the court to take a "shot in the dark" and guess whether the  
19 hours expended were reasonable, which is precisely the opposite  
20 of the methodical calculations the lodestar method requires. See  
21 Hensley, 461 U.S. at 434.

22 California courts have held that a trial court may  
23 "exercise its discretion in assigning a reasonable percentage to  
24 the [block billed] entries, or simply cast them aside." Bell,  
25 Cal. App. 4th at 689. Under federal law, however, when a court  
26 is faced with block billing, it may not simply make across the  
27 board reductions in fees or toss block billed hours aside.  
28 Rather, a district court must "provide a clear explanation" for

1 why any reduction in fees "properly compensate[s] for . . .  
2 overbilling or duplication." Sorenson v. Mink, 239 F.3d 1140,  
3 1146 (9th Cir. 2001); see also Welch, 480 F.3d at 948 (rejecting  
4 an across the board reduction for block billed fees because the  
5 court failed to adequately explain a rationale for its percentage  
6 reduction).

7           Block billing makes it virtually impossible for a court  
8 to comply with its requirement to give a clear, reasoned  
9 explanation for any fee reductions because those reductions would  
10 ultimately be nothing more than guesswork based on an imprecise  
11 billing statement. Given block billing's inherent inconsistency  
12 with the lodestar method, this court will not award fees for any  
13 blocked billed entries. However, the court will give defendants  
14 an opportunity to submit an amended billing statement that will  
15 allow the court to determine the reasonableness of defendants'  
16 fee request.

17           IT IS THEREFORE ORDERED that defendants shall submit an  
18 amended motion for attorney's fees that contains a billing  
19 statement that does not use block billing by May 3, 2010.

20           IT IS FURTHER ORDERED that plaintiffs shall file any  
21 opposition to this motion by May 17, 2010. Defendants may then  
22 file any reply no later than May 24, 2010.

23           IT IS FURTHER ORDERED that the April 26, 2010 hearing  
24 on this matter be, and the same hereby is, VACATED. After the

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