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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SCOTT JOHNSON,

Plaintiff,

v.

J. ISSAC CASTRO; ELVIRA
CASTRO; JOSE RAMIREZ; and
CLAUDIA R. DELGADO-RAMIREZ,

Defendants.

No. 2:14-cv-02008-JAM-CKD

ORDER AWARDING FEES AND EXPENSES

Plaintiff Scott Johnson sued Defendants Jose Luis Ramirez, Claudia R. Delgado-Ramirez, J. Issac Castro, and Elvira Castro, alleging that Defendants' restaurant in Stockton, California did not comply with the Americans with Disabilities Act ("ADA") and California law.¹ ECF No. 1. After prevailing on summary judgment, ECF No. 48, Plaintiff moves for attorneys' fees and litigation expenses. ECF No. 57. Defendants filed an untimely opposition brief. ECF No. 60. In deciding Plaintiff's motion, the Court will not consider Defendants' brief.

¹ This motion was determined to be suitable for decision without oral argument. E.D. Cal. L.R. 230(g). The hearing was scheduled for December 13, 2016.

1 I. OPINION

2 A. Legal Standard

3 A prevailing party is entitled to reasonable attorneys'
4 fees and expenses under the ADA and the Unruh Act. 42 U.S.C. §
5 12205; Cal. Civ. Code § 52(a). "[A] plaintiff 'prevails' when
6 actual relief on the merits of his claim materially alters the
7 legal relationship between the parties by modifying the
8 defendant's behavior in a way that directly benefits the
9 parties." Farrar v. Hobby, 506 U.S. 103, 111-12 (1992). To
10 determine a reasonable fee, courts calculate "the number of
11 hours reasonably expended on the litigation multiplied by a
12 reasonable hourly rate." Hensley v. Eckerhart, 461 U.S. 424,
13 433 (1983).

14 B. Analysis

15 1. Hours Reasonably Expended

16 Plaintiff submitted a billing summary itemizing the hours
17 expended by seven attorneys: Mark Potter, Russell Handy, Raymond
18 Ballister Jr., Phyl Grace, Dennis Price, Amanda Lockhart, and
19 Isabel Masanque. Billing Summary, ECF No. 57-3, at 1.
20 Initially, Plaintiff requested \$16,260.00 in fees and costs, but
21 has reduced it to \$12,560.00. Mot. at 1; Request for Modified
22 Award, ECF No. 59, at 2.

23 The Court finds Plaintiff's request to be excessive and
24 unreasonable given that this is relatively simple and
25 straightforward ADA case involving an area of the law in which
26 Plaintiff's attorneys have extensive experience. First, the
27 Court finds it unreasonable and inefficient to staff seven
28 attorneys on a case that parallels hundreds of other cases these

1 attorneys have brought on Plaintiff's behalf. Even counsel
2 acknowledges that the "case presented no significant legal
3 issues of first impression" and "did not present specialized or
4 skillful challenges and was a fairly straight-forward
5 application of the law." Mot. at 13, 15. Plaintiff's counsel
6 does not explain why this case required several partners and
7 several associates. To staff seven lawyers is cumulative and
8 inefficient; one partner and one associate should have sufficed.

9 Second, Plaintiff's attorneys frequently use boilerplate
10 forms to litigate ADA cases. In fact, this Court just completed
11 reviewing another request by Plaintiff for attorneys' fees in a
12 similar ADA case—the pleadings and briefing there parallel the
13 pleadings and briefing here. This is not the first time this
14 Court has addressed this issue with Plaintiff's attorneys. Just
15 4 months ago, this Court concluded that some of Potter's,
16 Lockhart's, and Masanque's billing entries were unreasonable.
17 See Johnson v. Chan, No. 14-cv-1671, 2016 WL 4368104, at *2-3
18 (E.D. Cal. Aug. 15, 2016).

19 The boilerplate nature of the filings in this case suggest
20 that it should have taken Potter little time to draft the
21 complaint, discovery requests, and attorneys' fees motion. So,
22 the Court reduces Potter's 7/2/2014 entry for drafting the
23 complaint from 0.7 to 0.3 hours, 11/24/2014 entry for drafting
24 discovery from 1.7 to 0.5 hours, and 10/13/2016 entry for
25 drafting the fee motion from 2.0 to 0.5 hours.

26 Having made the above reductions, the Court finds that
27 Potter reasonably expended 12.1 hours and Price reasonably
28 expended 9.6 hours. The Court declines to award fees for the

1 unreasonable hours Handy, Ballister, Grace, Lockhart, and
2 Masanque billed because their work was unnecessarily duplicative
3 and inefficient. See Chan, 2016 WL 4368104 at *1. See also
4 Davis v. City & Cty. of San Francisco, 976 F.2d 1536, 1543 (9th
5 Cir. 1992) ("It simply is not reasonable for a lawyer to bill,
6 at her regular hourly rate, for tasks that a non-attorney
7 employed by her could perform at a much lower cost.").

8 2. Reasonable Hourly Rate

9 The Court must now multiply the reasonable hours expended
10 in this litigation by the reasonable hourly rate for each
11 attorney. See Chan, 2016 WL 4368104 at *3. Courts determine
12 reasonable hourly rates by reviewing the "prevailing market
13 rates in the relevant community." See Blum v. Stenson, 465 U.S.
14 886, 895 (1984). The party seeking fees must "produce
15 satisfactory evidence...that the requested rates are in line
16 with...lawyers of reasonably comparable skill, experience and
17 reputation." See id. at 895 n.11.

18 Plaintiff seeks hourly rates of \$350 for Potter and \$200
19 for Price. Mot. at 4. Plaintiff's counsel relies on John
20 O'Connor's expertise on attorneys' fees, ECF No. 57-10, and the
21 2014 Real Rate Report. ECF No. 57-11.

22 The Court is not persuaded that the requested hourly rates
23 are reasonable. First, O'Connor's declaration offers no help
24 because O'Connor does not evaluate disability access cases;
25 instead, O'Connor's analysis primarily pertains to labor
26 litigation. See ECF No. 57-10. Second, the Real Rate Report
27 addresses reductions to hourly fees for numerous corporate
28 practice areas, but not disability access. See ECF No. 57-11,

1 at 29. The Report does not provide a helpful benchmark for
2 lawyers litigating disability access cases for non-corporate
3 clients.

4 "District judges can...consider the fees awarded by other
5 judges in the same locality in similar cases." Moreno v. City of
6 Sacramento, 534 F.3d 1106, 1115 (9th Cir. 2008). Recently, this
7 Court and other judges in the Eastern District of California have
8 found the hourly rates of \$300 for Potter and \$150 for junior
9 associates reasonable for disability access cases in the
10 Sacramento legal community. See Chan, 2016 WL 4368104 at *3;
11 Johnson v. Gross, No. 14-2242, 2016 WL 3448247, at *3 (E.D. Cal.
12 June 23, 2016); Johnson v. Lin, No. 13-cv-1484, 2016 WL 1267830,
13 at *4 (E.D. Cal. Mar. 31, 2016).

14 Accordingly, the attorneys' fees here are awarded as
15 follows:

16	Potter	12.1	x	\$300	=	\$3,630.00
17	Price	9.6	x	\$150	=	\$1,440.00
18						\$5,070.00

19 The Court also grants Plaintiff's request for \$200 in costs.

20 II. ORDER

21 For the reasons set forth above, the Court GRANTS
22 Plaintiff's motion for attorneys' fees and expenses. The Court
23 awards \$5,270.00.

24 IT IS SO ORDERED.

25 Dated: December 15, 2016

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JOHN A. MENDEZ,
UNITED STATES DISTRICT JUDGE