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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

BUTA SINGH,  
  
Plaintiff,  
  
v.  
  
HARMINDER S. POONI, RAVINDER  
KAUR, and PAN-AM TRANSPORT,  
INC., a KANSAS CORPORATION,  
  
Defendants.  
  
AND RELATED COUNTERCLAIMS

No. 2:14-cv-02146-JAM-DB

**ORDER GRANTING IN PART & DENYING  
IN PART PLAINTIFF'S MOTION FOR  
ATTORNEYS' FEES & COSTS**

Pending before the Court is Plaintiff's Motion for Attorneys' Fees and Costs. Having reviewed the parties' briefs, and for the reasons explained below, the Court awards Plaintiff \$31,037.50 in attorneys' fees, but denies his request for costs.<sup>1</sup>

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<sup>1</sup> This motion was determined to be suitable for decision without oral argument. E.D. Cal. L.R. 230(g). The hearing was scheduled for March 21, 2017.

1 I. FACTUAL ALLEGATIONS AND PROCEDURAL BACKGROUND

2 This case involves a dispute between Plaintiff Buta Singh  
3 and Defendant Harminder S. Pooni over a 2005 Hummer H2 with a  
4 right-hand drive conversion. Plaintiff brought five state claims  
5 against Defendant<sup>2</sup> Pooni: (1) unlawful conversion; (2) theft by  
6 false pretenses; (3) breach of contract; (4) unfair business  
7 practices; and (5) claim and delivery. First Am. Compl. ("FAC"),  
8 ECF No. 29, at 4-8. Defendant counterclaimed, suing Plaintiff  
9 for (1) breach of contract, (2) fraud, and (3) breach of the  
10 implied covenant of good faith and fair dealing. Countercl., ECF  
11 No. 44, at 7-10.

12 A jury returned verdicts for Plaintiff on his first, second,  
13 and third claims. ECF No. 110. As for Defendant's  
14 counterclaims, the jury again returned a verdict for Plaintiff.  
15 ECF No. 111.

16 Following the publication of the jury verdicts, this Court  
17 returned verdicts for Plaintiff on his fourth and fifth claims  
18 and ordered post-trial briefing on remedies. ECF No. 108.  
19 Plaintiff filed his brief, albeit weeks late. Suppl. Br., ECF  
20 No. 116. Defendant did not file a responsive brief.

21 Plaintiff also moves for attorneys' fees and costs, see ECF  
22 No. 112, but Defendant opposes. ECF No. 115. Plaintiff did not  
23 file a reply.

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25 <sup>2</sup> Originally, Singh sued two other defendants: Ravinder Kaur and  
26 Pan-Am Transport, Inc. See First Am. Compl., ECF No. 29, at 1.  
27 At trial, this Court found for these defendants under Fed. R.  
28 Civ. P. 50(a), concluding as a matter of law Singh could not  
prevail against them, leaving Harminder S. Pooni the only  
remaining defendant.

1 II. OPINION

2 A. Attorneys' Fees

3 1. Lodestar Method

4 When evaluating requests for attorneys' fees, the court  
5 begins by calculating the lodestar amount, which involves  
6 multiplying the number of hours reasonably expended by a  
7 reasonable hourly rate. See Hensley v. Eckerhart, 461 U.S. 424,  
8 433 (1983). A court should exclude from this initial  
9 calculation any "excessive, redundant, or otherwise unnecessary"  
10 hours expended. See id. at 434.

11 But the following Kerr factors may compel a court to adjust  
12 the lodestar amount:

13 (1) the time and labor required; (2) the novelty and  
14 the difficulty of the questions involved; (3) the  
15 skill requisite to perform the legal service properly;  
16 (4) the preclusion of other employment by the attorney  
17 due to acceptance of the case; (5) the customary fee;  
18 (6) whether the fee is fixed or contingent; (7) time  
19 limitations imposed by the client or the  
20 circumstances; (8) the amount involved and the results  
21 obtained; (9) the experience, reputation, and ability  
22 of the attorneys; (10) the "undesirability" of the  
23 case; (11) the nature and length of the professional  
24 relationship with the client; and (12) awards in  
25 similar cases.

20 Kerr v. Screen Extras Guild, Inc., 526 F.2d 67, 70 (9th Cir.  
21 1975), abrogated on other grounds by City of Burlington v.  
22 Dague, 505 U.S. 557 (1992). These Kerr factors, however, are  
23 often subsumed within the lodestar amount, so courts must ensure  
24 they account for any potential overlap. See Cunningham v. Cty.  
25 of Los Angeles, 879 F.2d 481, 487 (9th Cir. 1989).

26 The party seeking fees should provide documentary evidence  
27 showing "the number of hours spent, and how it determined the  
28 hourly rate(s) requested." McCown v. City of Fontana, 565 F.3d

1 1097, 1102 (9th Cir. 2008). Then the opposing party must submit  
2 specific rebuttal evidence "challenging the accuracy and  
3 reasonableness of the hours charged or the facts asserted by"  
4 the moving party. Gates v. Gomez, 60 F.3d 525, 534-35 (9th Cir.  
5 1995).

6 2. Analysis

7 Plaintiff requests \$31,037.50 in attorneys' fees. See Mot.  
8 at 3. It is undisputed Singh is entitled to fees for prevailing  
9 at trial. See Cal. Penal Code § 496(c) ("Any person who has  
10 been injured . . . may bring an action for . . . costs of suit,  
11 and reasonable attorney's fees."). Yet Pooni opposes this  
12 motion based on several alleged procedural defects. See  
13 generally Opp'n. To support his requested fees, Plaintiff  
14 submits two declarations and a billing sheet. See Bolanos  
15 Decl., ECF No. 112-2; Dudensing Decl., ECF No. 112-3; Ex. 1, ECF  
16 No. 112-4. Although these records are not of the quality and  
17 detail normally expected by this Court, they are minimally  
18 sufficient for this Court to assess whether the amount requested  
19 is reasonable.

20 a. Hourly Rate

21 To determine the reasonableness of the hourly rates  
22 requested, a court looks to the prevailing market rates in the  
23 relevant community for "similar work performed by attorneys of  
24 comparable skill, experience, and reputation." Blum v. Stenson,  
25 465 U.S. 886, 895 (1984); Chalmers v. City of Los Angeles, 796  
26 F.2d 1205, 1210-11 (9th Cir. 1986).

27 Plaintiff's counsel each requests a \$250 hourly rate. See  
28 Bolanos Decl. at 2; See Dudensing Decl. at 1. Jan Dudensing was

1 admitted to the California State Bar in 2011. Janice Dianne  
2 Dudensing, The State Bar of California,  
3 <http://members.calbar.ca.gov/fal/Member/Detail/279561>. She  
4 founded her own firm, specializing in foreclosure law, personal  
5 injury, and elder abuse. Areas of Practice, Dudensing Kim,  
6 <http://dudensingkimlaw.com/practices/>. The prevailing rate in  
7 Sacramento for mid-level associates ranges from \$200 to \$300.  
8 See Chapman v. Pier 1 Imports (U.S.), Inc., No. 04-1339, 2017 WL  
9 999253, at \*3 (E.D. Cal. Mar. 15, 2017) (accepting \$200 hourly  
10 award for associates after recognizing \$250-\$300 as the  
11 "prevailing Sacramento rate"); Cosby v. Autozone, Inc., No. 08-  
12 505, 2016 WL 1626997, at \*8 (E.D. Cal. Apr. 25, 2016) (finding  
13 \$300 rate reasonable for fifth-year associate). The Court  
14 therefore finds Ms. Dudensing's \$250 hourly rate reasonable  
15 because it falls well within Sacramento's prevailing rate for  
16 attorneys with mid-level experience.

17 The Court also accepts Aldon Bolanos's requested \$250  
18 hourly rate. Mr. Bolanos was admitted to the California State  
19 Bar in 2004. Aldon Louis Bolanos, The State Bar of California,  
20 <http://members.calbar.ca.gov/fal/Member/Detail/233915>. He also  
21 manages his own firm, garnering experience in several practice  
22 areas. Aldon Bolanos, <http://www.aldonlaw.com/> (listing  
23 "business, real estate, civil rights, employment and  
24 catastrophic injury law"). Mr. Bolanos's requested \$250 hourly  
25 rate falls well below Sacramento's prevailing rate for  
26 experienced attorneys. See Estrada v. iYogi, Inc., No. 13-1989,  
27 2016 WL 310279, at \*6 (E.D. Cal. Jan. 26, 2016) (approving \$400  
28 requested rate for partners with as much as 19 years of

1 experience); Trulsson v. Cty. of San Joaquin Dist. Attorneys'  
2 Office, No. 11-2986, 2014 WL 5472787, at \*6 (E.D. Cal. Oct. 28,  
3 2014) (accepting \$450 hourly rate for experienced attorney).

4 b. Hours Expended

5 Plaintiff contends spending 124.15 hours on this case was  
6 reasonable. See Dudensing Decl. ¶ 3; Ex. 1 at 5. Defendant  
7 disagrees primarily on several procedural grounds. See  
8 generally Opp'n (discussing federal and local rules).

9 (i) Mr. Bolanos

10 Mr. Bolanos spent 85.70 hours on this case. Ex. 1 at 5.  
11 He worked on the matter for three years, from its inception  
12 until just before the pre-trial conference. See Bolanos Decl.  
13 ¶ 2. His corresponding billing statement sufficiently explains  
14 the work performed, when he performed it, and for how long. See  
15 generally Ex. 1. The Court finds the hours Mr. Bolanos expended  
16 reasonable because nothing in his statement shows any hour  
17 expended was "excessive, redundant, or otherwise unnecessary."  
18 See Hensley, 461 U.S. at 434.

19 Defendant's objections do not change this conclusion. He  
20 argues Plaintiff has not identified the statutory basis for  
21 attorneys' fees, see Opp'n at 3, but Plaintiff has. See Mot. at  
22 2 (citing Cal. Penal Code § 496(c)). Defendant also contends  
23 Plaintiff failed to provide the specific basis on which he  
24 claims to be the prevailing party. See Opp'n at 4. Yet it is  
25 quite clear Plaintiff prevailed against Defendant Pooni at  
26 trial. In short, the Court finds the time Mr. Bolanos spent on  
27 this case was reasonable.

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(ii) Ms. Dudensing

Ms. Dudensing spent 38.45 hours on this case. Dudensing Decl. ¶ 3. She handled it from the pre-trial conference through trial. Id. Defendant contends that Ms. Dudensing’s time cannot be verified because she did not attach a billing sheet to her declaration. See Opp’n at 5. The Court disagrees. The Court witnessed Ms. Dudensing litigate this case, and an award of her attorney’s fees is certainly deserved given her successful performance at trial. In sum, Ms. Dudensing’s 38.45 hours are reasonable.

c. Lodestar Amount

There is a strong presumption that the lodestar amount is the reasonable fee. See United Steelworkers of Am. v. Phelps Dodge Corp., 896 F.2d 403, 406 (9th Cir. 1990). The Court therefore awards the following in attorneys’ fees:

Aldon Bolanos	85.70	x	\$250	=	\$21,425.00
Jan Dudensing	38.45	x	\$250	=	<u>\$ 9,612.50</u>
					\$31,037.50

B. Costs

Plaintiff also requests \$1,729.40 in costs. Mot. at 3. Defendant argues Plaintiff improperly seeks costs because neither declaration references any costs incurred and because Plaintiff did provide an itemized bill. See Opp’n at 5. The Court agrees with Defendant. The local rule plainly states the party must “file a bill of costs . . . .” E.D. Cal. L.R. 292(b). Because Plaintiff did not do so, the Court denies his request for costs.

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1 C. Remedies

2 After trial, the Court ordered the parties to file  
3 supplemental briefing on remedies. Plaintiff's brief enumerates  
4 the appropriate remedies. See generally ECF No. 116. Defendant  
5 did not file a supplemental brief.

6 At the outset, Plaintiff requests \$51,552.00 in money  
7 damages. Suppl. Br. at 2. Yet the jury awarded him only  
8 \$47,664.00 in money damages. ECF No. 110 (\$5,000 for unlawful  
9 conversion claim; \$26,664 for theft by false pretenses claim;  
10 and \$16,000 for breach of contract claim). Because Plaintiff  
11 does not explain why he believes he is entitled to more money  
12 than the jury awarded him, the Court denies his excessive  
13 request and confirms the jury award of \$47,664.00 in money  
14 damages.

15 Plaintiff also requests punitive damages for his conversion  
16 claim. Suppl. Br. at 2. This fails for two reasons. First,  
17 Plaintiff's request is improper because he never asked for  
18 punitive damages in his FAC. See FAC at 9. See also GBTI, Inc.  
19 v. Ins. Co. of Pennsylvania, No. 09-1173, 2009 WL 2365409, at \*6  
20 (E.D. Cal. July 29, 2009) ("Punitive damages are 'available to a  
21 party who can plead and prove the facts and circumstances set  
22 forth in Civil Code section 3294.'" (internal citation  
23 omitted). Second, under California law, a court may award  
24 punitive damages "in noncontract actions 'where it is proven by  
25 clear and convincing evidence that the defendant has been guilty  
26 of oppression . . . or malice' . . . ." See Lackner v. North,  
27 135 Cal. App. 4th 1188, 1210 (2006) (citing Cal. Civ. Code  
28 section 3294(a)). Yet, here, at its core, this dispute involved

1 a contract breach. The Court therefore will not award punitive  
2 damages and need not include a non-dischargeability provision.  
3 See Suppl. Br. at 2 (arguing that a court order granting  
4 punitive damages for a conversion claim "must include a  
5 provision related to non-dischargeability").

6 Additionally, Plaintiff requests statutory attorneys' fees  
7 and costs for his theft by false pretenses claim. Id. Because  
8 the Court has awarded attorneys' fees, the Court will not award  
9 additional fees because that would be duplicative. And, for the  
10 reasons explained above, the Court denies Plaintiff's request  
11 for costs.

12 As to his unfair business practices claim, Plaintiff  
13 requests an injunction, restitution, attorneys' fees, and costs.  
14 Id. Again, the Court will not award more fees and denies  
15 Plaintiff's requests for costs. As far as restitution is  
16 concerned, that too would be duplicative and is therefore  
17 denied.

18 Lastly, as to Plaintiff's claim and delivery claim, the  
19 Court declares that Plaintiff is the rightful owner of the  
20 contested 2005 Hummer H2 and may retain possession of this  
21 vehicle.

### 22 III. ORDER

23 For the reasons set forth above, the Court GRANTS in part  
24 and DENIES in part Plaintiff's Motion for Attorneys' Fees and  
25 Costs. The Court awards Plaintiff \$31,037.50 in attorneys' fees,  
26 but denies Plaintiff's request for costs. As far as the final  
27 judgment is concerned, the Court awards Plaintiff \$47,664.00 in  
28 monetary damages and declares that Plaintiff is the rightful

1 owner of this 2005 Hummer H2. Plaintiff is ordered to submit a  
2 proper form of final judgment consistent with this Order within  
3 ten days.

4 IT IS SO ORDERED.

5 Dated: April 5, 2017

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7 JOHN A. MENDEZ,  
8 UNITED STATES DISTRICT JUDGE  
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