

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT TERRY, et al.,

Plaintiffs,

v.

REGISTER TAPES UNLIMITED, INC.,  
et al.,

Defendants.

No. 2:16-cv-00806-WBS-AC

ORDER

On March 27, 2018, the undersigned granted plaintiff's motion for sanctions and ordered plaintiffs to submit the billing records necessary to calculate fees. ECF No. 65. Plaintiffs have done so, and the court hereby orders fees in the amount of \$32,452.50.

**I. Relevant Background**

On July 31, 2017, this court granted in part plaintiffs' motion to compel. ECF No. 52. As part of this order, the court required the production of several categories of documents, overruled certain privilege objections, and ordered production of a privilege log. Id. The parties continued to engage in discovery, including an informal telephone conference with the court on January 11, 2018. ECF 59. On February 20, 2018, plaintiffs moved for sanctions and to enforce the July 31, 2017 discovery order. ECF No. 60. On March 27, 2018, following a hearing on the motion, the court granted plaintiffs' motion and ordered that an award of fees as sanctions would follow

1 separately upon the submission of the necessary documentation from plaintiffs. ECF No. 65.  
2 Plaintiffs submitted the necessary documentation on April 2, 2018. ECF No. 66. On April 9,  
3 2018, defendants filed a response and objections. ECF No. 67.

## 4 **II. Analysis**

5 The parties have not disputed that the appropriate method for computing fees in this case  
6 is the lodestar approach, in which the court multiplies the number of hours reasonably expended  
7 on the litigation by a reasonable hourly rate. Cunningham v. City of Los Angeles, 879 F.2d 481,  
8 484 (9th Cir. 1988). In order to reach a determination of total fees owed as sanctions, the court  
9 must consider (1) when the billable hours began to run towards sanctions, and (2) the appropriate  
10 rates by which to multiply the hours for each billing individual.

11 As to the first matter, the court determines that hours began to run towards sanctions for  
12 all discovery-related efforts taking place on or after July 31, 2017. The court's directives in its  
13 July 31, 2017 order were clear, and had defendants complied with that order, no further hours  
14 spent on discovery-related conflict would have been necessary. Thus, the court accepts the hours  
15 presented for attorneys and paralegals<sup>1</sup> represented in Table 2 of Robert L. Boucher's  
16 Declaration. ECF No. 66 at 4.

17 With respect to rates, plaintiffs submit lengthy declarations as to why the court should  
18 make an upward deviation from the "local rates" previously determined by this court. The court  
19 has recently held rates at \$350 per hour for attorneys and \$75 per hour for paralegals are  
20 appropriate in this district. Morgan Hill Concerned Parents Ass'n v. California Dep't of Educ.,  
21 No. 2:11-CV-03471-KJM-AC, 2017 WL 2492850, at \*3 (E.D. Cal. June 9, 2017); see also Ass'n  
22 v. California Dep't of Educ., No. 2:11-CV-03471-KJM-AC, 2017 WL 2492850, at \*1 (E.D. Cal.  
23 June 9, 2017), Orr v. California Highway Patrol, 2015 WL 9305021 at \* 4, 2015 U.S. Dist.  
24 LEXIS 170862 at \*13 (E.D. Cal. 2015) (Shubb, J.); Lin v. Dignity Health, 2014 WL5698448 at

---

25 <sup>1</sup> Two billing individuals reflected in the table, Bates and Baker, are neither attorneys nor  
26 paralegals, but are instead classified as "case managers." The court finds no reason to include a  
27 fee award for individuals who are neither attorneys nor trained paralegals. Moreover, the  
28 declarations submitted regarding their time indicate that the bulk of their billed time was for  
reading e mails. See Exhibits H and I. The hours billed by these individuals are not included in  
the fee award.

1 \*3, 2014 U.S. Dist. LEXIS 155980 at \*7-8 (E.D. Cal. 2014) (Mueller, J.). Though the court has  
2 reviewed the submitted declarations and understands that plaintiff's counsel ordinarily bills at  
3 higher rates, the court does not find good cause to deviate from the ordinarily enforced rates in  
4 this district. A calculation of plaintiffs' billed time since July 31, 2017 at the accepted local rate  
5 yields a fees as sanctions award of \$32,452.50, as represented in the table below.

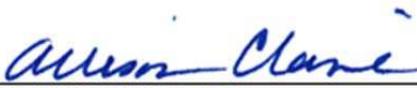
Biller	Rate	Hours	Total/Person
Bohm (Attorney)	\$ 350.00	5	\$ 1,750.00
Boucher (Attorney)	\$ 350.00	52	\$ 18,200.00
Ulmer (Attorney)	\$ 250.00	37.2	\$ 9,300.00
Patterson (Paralegal)	\$ 75.00	42.7	\$ 3,202.50
<b>Total Fees:</b>			\$ 32,452.50

### 12 III. Conclusion

13 For the reasons explained above, it is hereby ordered that defendants shall pay to plaintiffs  
14 \$32,452.50 in fees as sanctions within 10 days of this order. Failure to timely comply with this  
15 order will result in further sanctions.

16 IT IS SO ORDERED.

17 DATED: April 16, 2018

18   
19 ALLISON CLAIRE  
20 UNITED STATES MAGISTRATE JUDGE