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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Chong's Produce, Inc.,

NO. C 09-00693 JW

Plaintiff,

**ORDER GRANTING PLAINTIFF'S
MOTION FOR ATTORNEYS FEES AND
COSTS**

v.

The Produce Company, Inc., et al.,

Defendants.

Presently before the Court is Plaintiff's Motion for Attorneys Fees and Costs. (hereafter, "Motion," Docket Item No. 20.) Plaintiff seeks \$4,470 in attorneys fees and \$455 in costs.

Pursuant to 7 U.S.C. § 499e(c)(2), a plaintiff suing under the Perishable Agricultural Commodities Act may collect reasonable attorneys fees when expressly provided for by contract. Middle Mountain Land and Produce, Inc. v. Sound Commodities, Inc., 307 F.3d 1220, 1224 (9th Cir. 2002).

Here, the invoices used by the parties state the following: "IN ANY ACTION OR PROCEEDING COMMENCED TO ENFORCE THIS CONTRACT THE PREVAILING PARTY WILL BE AWARDED ITS COSTS AND ATTORNEYS FEES." (Declaration of Susan E. Bishop in Support of Motion for Attorneys Fees, Ex. B, hereafter, "Bishop Decl.," Docket Item No. 22.) Thus, the Court finds that attorneys fees are appropriate.

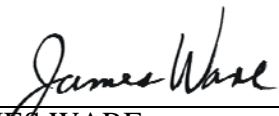
Plaintiff's counsel provides an itemized listing of her time spent on this matter, a bill of costs incurred in this case and her current billing rate. (Bishop Decl., Exs. A-B.) Upon review of the papers submitted by counsel, the Court awards Plaintiff \$4,470 in attorneys fees and \$455 in costs.

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Accordingly, the Court GRANTS Plaintiff's Motion for Attorneys Fees and Costs. Defendants are ordered to pay attorneys fees and costs in the total amount of \$4,925 within thirty (30) days from the date of this Order. To the extent that an Amended Judgment is necessary, Plaintiff shall file such amendment within ten (10) days from the date of this Order.

Plaintiff shall serve this Order upon Defendants and file the appropriate certificate of service on or before **May 15, 2009**. The hearing on the Motion schedule for May 18, 2009 is VACATED.

Dated: May 12, 2009



JAMES WARE
United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Susan E. Bishop sbishop@prattattorneys.com

3 **Dated: May 12, 2009**

Richard W. Wieking, Clerk

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By: /s/ JW Chambers
Elizabeth Garcia
Courtroom Deputy

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