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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

CROSSFIT, INC.,
Plaintiff,
v.
ANDRES DEL CUETO DAVALOS,
Defendant.

Case No. [14-cv-00725-BLF](#)

**ORDER AWARDING PLAINTIFF
ATTORNEY’S FEES AND COSTS**

On February 24, 2017, this Court granted Plaintiff CrossFit, Inc. (“CrossFit”)’s motion for default judgment against Defendant Andres Del Cueto Davalos (“Del Cueto”) and entered judgment in favor of Plaintiff. ECF 45, 46. The Court awarded CrossFit attorney’s fees and litigation costs incurred in this action, pursuant to 15 U.S.C. § 1117(a), the amount to be determined after the entry of default judgment. Order Granting Pl.’s Mot. for Default J. Against Def. Andres Del Cueto Davalos (“Prior Order”) 5–6, ECF 45. Presently before the Court is the Declaration of Christopher D. Dusseault in support of CrossFit’s schedule of attorney’s fees and bill of costs. Dusseault Decl., ECF 47. CrossFit seeks to recover \$107,874.52 in fees and \$1,752 in costs. Dusseault Decl. ¶¶ 10, 21. Because the Court has already determined that an award of fees and costs is appropriate, the Court must now determine whether Plaintiff’s attorney rates and the claimed costs are reasonable.

In calculating awards for attorneys’ fees, courts use “the ‘lodestar’ method, and the amount of that fee must be determined on the facts of each case.” *Camacho v. Bridgeport Fin., Inc.*, 523 F.3d 973, 978 (9th Cir. 2008) (quoting *Ferland v. Conrad Credit Corp.*, 244 F.3d 1145, 1149 n.4 (9th Cir. 2001) (internal quotation marks and citations omitted); *see also Hensley v. Eckerhart*, 461 U.S. 424, 429 (1983). “The ‘lodestar’ is calculated by multiplying the number of

1 hours the prevailing party reasonably expended on the litigation by a reasonable hourly rate.”
 2 *Morales v. City of San Rafael*, 96 F.3d 359, 363 (9th Cir. 1996) *opinion amended on denial of*
 3 *reh’g*, 108 F.3d 981 (9th Cir. 1997). The moving party bears the burden of providing relevant
 4 documentation demonstrating the reasonableness of the hours spent on the litigation. *Hensley*, 461
 5 U.S. at 433. In the absence of adequate documentation supporting the number of hours expended
 6 on the lawsuit, “the district court may reduce the award accordingly.” *Id.* “The district court also
 7 should exclude from this initial [lodestar] calculation hours that were not ‘reasonably expended.’”
 8 *Id.* at 434 (quoting S. Rep. No. 94-1011, p. 6 (1976)).

9 When determining the reasonable hourly rate, the court must weigh the “experience, skill,
 10 and reputation of the attorney requesting fees,” and compare the requested rates to prevailing
 11 market rates. *Chalmers v. City of Los Angeles*, 796 F.2d 1205, 1210 (9th Cir. 1986) *opinion*
 12 *amended on denial of reh’g*, 808 F.2d 1373 (9th Cir. 1987); *see also Blum v. Stenson*, 465 U.S.
 13 886, 886 (1984). Once calculated, the lodestar amount, which is presumptively reasonable, may
 14 be further adjusted based on other factors not already subsumed in the initial lodestar calculation.
 15 *Morales*, 96 F.3d at 363–64, 363 nn.3–4 (identifying factors) (citing *Kerr v. Screen Guild Extras,*
 16 *Inc.*, 526 F.2d 67, 70 (9th Cir. 1975)).

17 **A. Reasonableness of Rates**

18 Plaintiff seeks to recover fees for work performed by six attorneys: Chris Dusseault,
 19 Perlette Jura, Abbey Hudson, Ilissa Samplin, Tom Pack, and Jose Massas Farell, as well as two
 20 paralegals. Their hourly rates and titles are as follows:

Attorney	2014 Reduced Rate	2015 Reduced Rate	2016 Reduced Rate	Title
Chris Dusseault	\$540	\$610	\$680	Partner
Perlette Jura	\$515	\$555	\$595	Partner
Abbey Hudson	\$515	\$555	\$595	Litigation Associate
Ilissa Samplin	\$375	\$435	\$495	Litigation Associate
Tom Pack	\$375	\$435	\$495	Former Litigation Associate
Jose Massas Farell	–	–	\$295	Mexican Counsel
Paralegal A	–	–	\$135	Paralegal
Paralegal B	–	–	\$115	Paralegal

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28 Dusseault Decl. ¶¶ 6, 9. In support of their request, Plaintiff, who bears the burden of establishing

1 reasonably, states that the rates listed above have been found reasonable by other courts in this
2 district. *Id.* (citing *Ferris v. All. Publ’g Inc.*, No. 15-cv-5675, 2016 WL 7116110 (N.D. Cal. Dec.
3 6, 2016)).

4 “In the Bay Area, ‘reasonable hourly rates for partners range from \$560 to \$800, for
5 associates from \$285 to \$510, and for paralegals and litigation support staff from \$150 to \$240.’”
6 *In re LinkedIn User Privacy Litig.*, 309 F.R.D. 573, 591–92 (N.D. Cal. 2015). Plaintiff’s
7 requested rates fall well within these parameters, and, based on the Court’s prior experience, the
8 Court find these rates to be reasonable in light of the attorneys’ skill and experience.

9 **B. Reasonableness of Hours**

10 The Court next considers the reasonableness of the hours expended. The Court cannot
11 “uncritically” accept the plaintiff’s representations; rather, it must assess the reasonableness of the
12 hours requested. *Sealy, Inc. v. Easy Living, Inc.*, 743 F.2d 1378, 1385 (9th Cir. 1984). In making
13 this determination, the Court can reduce hours when documentation is inadequate, or when the
14 requested hours are redundant, excessive, or unnecessary. *Hensley*, 461 U.S. at 433–34.

15 Plaintiff expended 238.9 hours by the attorneys and paralegals mentioned above, however
16 only seeks compensation for 179.2 hours. Dusseault Decl. ¶ 7. Plaintiff submitted hourly records
17 divided by task, as follows:

Category of Tasks	Actual Time Spent by Gibson Dunn	Total Time Spent by Gibson Dunn for Which CrossFit is Requesting Compensation
Filing of the Complaint / Maintenance	77.3 hours	58 hours
Service	61.8 hours	46.35 hours
Seeking Default	99.8 hours	74.85 hours
Total	238.9 hours	179.2 hours

18 *Id.* For this work, Plaintiff seeks to recover \$92,262.38 in fees. Dusseault Decl. ¶ 8.
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20 Plaintiff also seeks to recover \$15,612.14 in fees attributable to Mr. Farrell’s and the two paralegals
21 efforts to serve Del Cueto. *Id.* ¶ 9; Ex. B to Dusseault Decl.
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23 Plaintiff explains that the first category of work, filing of the complaint and maintenance of
24 the action, includes pre-complaint investigation, drafting of the Complaint, and conducting
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1 additional research and analysis in support of the causes of action. *Id.* ¶ 11. In addition, this
2 category includes work done in connection with maintaining the action before the Court while
3 service was pending—namely, providing status updates to the Court and attending Case
4 Management Conferences. *Id.*; *see also* Ex. A to Dusseault Decl., ECF 47-1. Given the
5 complexity of this case, and the thoroughness of the Complaint, the Court finds 58 hours to be
6 reasonable.

7 The second category of work, service, includes time spent pursuing service, developing
8 alternative strategies to effectuate service, working with private investigators regarding service
9 issues, and repeated trips by Mexican counsel to the local court to check on the status of service.
10 Dusseault Decl. ¶ 12; Exs. A & B to Dusseault Decl., ECF 47-1, 47-2. Mr. Dusseault declares that
11 CrossFit’s counsel and Mexican counsel were forced to expend a large amount of time and
12 resources on service because Del Cueto repeatedly attempted to evade service. Dusseault Decl. ¶
13 12; *see also* ECF 22, 31, 40. Given Del Cueto’s repeated attempts to evade service, and the
14 transnational nature of service, the Court finds 46.35 hours to be reasonable.

15 The third category of work, seeking default against Del Cueto, reflects the time spent
16 preparing the Request for Entry of Default, the Motion for Default Judgment and supporting
17 documentation, as well as the time preparing for the hearing on the same. Dusseault Decl. ¶ 13;
18 Ex. A to Dusseault Decl. The Court finds the time expended for this purpose reasonable.

19 The Court notes that Plaintiff has voluntarily reduced its fee request by 25% of the hours
20 expended and decreased counsel’s regular hourly rate by 25%. This voluntary reduction
21 adequately addresses any concern the Court might have regarding hours expended prosecuting the
22 case. Thus, the Court finds no reason to further reduce the lodestar amount. The total fees
23 requested are reasonable and will be awarded.

24 In sum, the Court finds the hours spent on this case to be reasonable in light of the work
25 accomplished and the skill and expertise of the attorneys. Accordingly, the Court does not find it
26 necessary or appropriate to adjust the lodestar amount.

27 **C. Costs**

28 In addition, CrossFit seeks \$1,752 as reimbursement for costs related to this lawsuit.


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Dusseault Decl. ¶¶ 21, 22; Exs. C & D to Dusseault Decl., ECF 47-3, 47-4. Specifically, CrossFit seeks \$1,352 in costs in connection with service of this lawsuit, and \$400 in costs connected with filing this lawsuit. Finding these costs reasonable, the Court awards Plaintiff \$1,752 in costs.

D. Order

For the foregoing reasons, IT IS HEREBY ORDERED that Plaintiff shall recover attorney’s fees in the amount of \$107,874.52 and costs in the amount of \$1,752, for a total of \$109,626.52

Dated: April 25, 2017


BETH LABSON FREEMAN
United States District Judge