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

BASKIN-ROBBINS FRANCHISING LLC,
et al.,

Plaintiffs,

v.

ALAN A. CHUN,

Defendant.

Case No. [5:18-cv-05476-BLF](#)

**ORDER GRANTING PLAINTIFFS’
MOTION FOR ATTORNEYS’ FEES
AND COSTS**

[Re: ECF 33]

This case arises from allegations of breach of a franchise agreement, trademark infringement, and unfair competition. *See generally* Compl. ¶¶ 1, 36–58, ECF 1. Alan A. Chun (“Defendant”) has failed to appear, and in July 2019 this Court granted in part and denied in part Baskin-Robbins and BP IP LLC’s (collectively, “Plaintiffs”) Motion for Default Judgment. *See* Mot. for Default J., ECF 19; Order Granting in Part and Denying in Part Pl.’s Mot. for Default J. (“Prior Order”) 2–3, 16, ECF 29; Order Entering Permanent Inj. Against Def. Alan Chun (“Order Entering Inj.”), ECF 30; Judgment, ECF 31. Now before the Court is Plaintiffs’ Motion for Attorneys’ Fees and Costs (“Motion”). For the reasons stated below, Plaintiffs’ Motion is GRANTED.

I. BACKGROUND

Baskin-Robbins Franchising LLC (“BR”) grants franchises across the United States. Mot. 2; Compl. ¶¶ 2–3. In doing so, BR licenses its trademarks to franchisees so that they can operate under the Baskin-Robbins System.¹ Mot. 2; Compl. ¶¶ 2–3. In July 2017, Defendant

¹ Plaintiff BR IP LLC owns Baskin-Robbins’ trademarks. Mot. 2; Compl ¶ 3.

1 entered into a franchise agreement (the “Agreement”) with Plaintiffs. Mot. 2–3; Compl. ¶¶ 4, 18–
2 20, Exh. 1. Under the Agreement, Defendant agreed to pay all damages, interests, costs, and
3 expenses upon default. Mot. 3; Compl. ¶ 21, Exh. 1, at § 14.4.4. Eventually Defendant did
4 default, and Plaintiffs commenced this action in September 2018. Mot. 3; Compl. ¶ 26.

5 On July 16, 2019, this Court granted in part and denied in part Plaintiffs’ Motion for
6 Default Judgment against Defendant and entered judgment in Plaintiffs’ favor in the amount of
7 \$125,423.61. Prior Order; Order Entering Inj.; Judgment. Pursuant to 15 U.S.C. § 1117(a), the
8 Court determined that an award of attorneys’ fees and costs was warranted and instructed
9 Plaintiffs to move for them separately. Prior Order 13–14.

10 Presently before the Court is Plaintiffs’ Motion for Attorneys’ Fees and Costs, along with
11 supporting documentation. Mot.; Affidavit of Barry G. Stratford in Support of Plaintiffs’ Motion
12 for Attorneys’ Fees and Costs (“Stratford Decl.”), ECF 34; Bill of Costs, ECF 35, 36. Plaintiffs
13 seek a total of \$34,478.25, which includes \$33,620.00 in attorneys’ fees and \$858.25 in costs.
14 Mot. 1. Because the Court already approved an award for fees and costs, the only issue is whether
15 Plaintiffs’ claimed amount is appropriate. *See* Prior Order 13–14.

16 **II. ATTORNEYS’ FEES**

17 In calculating awards for attorneys’ fees, courts apply the “lodestar” method to the facts of
18 each case. *Camacho v. Bridgeport Fin., Inc.*, 523 F.3d 973, 978 (9th Cir. 2008); *see also Hensley*
19 *v. Eckerhart*, 461 U.S. 424, 429 (1983). The lodestar amount is presumptively reasonable. *See*
20 *Vogel v. Harbor Plaza Center, LLC*, 893 F.3d 1152, 1161 (9th Cir. 2018). “The ‘lodestar’ is
21 calculated by multiplying the number of hours the prevailing party reasonably expended on the
22 litigation by a reasonable hourly rate.” *Morales v. City of San Rafael*, 96 F.3d 359, 363 (9th Cir.
23 1996), *opinion amended on denial of reh’g*, 108 F.3d 981 (9th Cir. 1997). Once calculated, the
24 lodestar amount may be further adjusted based on other factors not already subsumed in the initial
25 lodestar calculation. *Morales*, 96 F.3d at 363–64, 363 nn.3–4 (identifying factors) (citing *Kerr v.*
26 *Screen Guild Extras, Inc.*, 526 F.2d 67, 70 (9th Cir. 1975), *abrogated on other grounds by City of*
27 *Burlington v. Dague*, 505 U.S. 557 (1992)).

28 Here, Plaintiffs seek \$33,620.00 for attorneys’ fees. Mot. 1. Three attorneys worked for

1 Plaintiffs on this case: (1) Charles Vincent Maloney (“Maloney”), (2) Barry G. Stratford
2 (“Stratford”), and (3) Catherine N. Grech (“Grech”).² Stratford Decl. ¶¶ 7a–c.

3 Maloney is a partner with thirty (30) years’ experience handling various complex
4 commercial litigation matters. Stratford Decl. ¶ 7a. Although he typically bills at over \$800 per
5 hour, for this matter he discounted his rate to \$475 per hour. Stratford Decl. ¶ 9. Maloney spent a
6 total of 2 hours reviewing Stratford’s and Grech’s work. *See* Stratford Decl., Exh. A.

7 Stratford is a counsel with six (6) years’ experience doing business litigation. Stratford
8 Decl. ¶ 7b. He bills at over \$600 per hour, but for this action he also cut his rate to \$475 per hour.
9 Stratford Decl. ¶ 9. Stratford worked 50.4 hours on this matter, spending most of his time drafting
10 the Motion for Default Judgment and this Motion. *See* Stratford Decl., Exh. A.

11 Grech is an associate with five (5) years’ experience, primarily doing employment law but
12 also handling trademark infringement work. Stratford Decl. ¶ 7c. Her usual billing rate is
13 upwards of \$550 per hour, but for this matter she charged \$375–\$475 per hour. *See* Stratford
14 Decl. ¶ 9, Exh. A. Grech worked 19.6 hours on the matter, spending most of her time preparing
15 and filing the Complaint, conferring with Plaintiffs, and working on the Motion for Default
16 Judgment. *See* Stratford Decl., Exh. A.

17 The attorneys’ work is summarized in this chart:

Attorney	Title	Years	Rate	Hours	Amount
Maloney	Partner	> 30	\$475	2	\$950
Stratford	Counsel	≈ 6	\$475	50.4	\$23,940
Grech	Associate	≈ 5	\$375–\$475	19.6	\$8,730
TOTAL				72 hours	\$33,620

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22 As explained below, this Court finds that both these hourly rates and number of hours
23 expended are reasonable given similar work performed in the community, and therefore GRANTS
24 Plaintiffs’ Motion as to the attorneys’ fees.

25
26 _____
27 ² It appears that either no paralegals worked on the case or Plaintiffs were not billed for paralegal
28 work. *See generally* Stratford Decl., Exh. A.

1 **A. Reasonableness of Rates**

2 When determining an attorney’s reasonable hourly rate, courts weigh the “experience,
3 skill, and reputation of the attorney requesting fees,” and compare the requested rates to prevailing
4 market rates of the relevant community. *Chalmers v. City of Los Angeles*, 796 F.2d 1205, 1210–
5 11 (9th Cir. 1986), *op. am. on denial of reh’g*, 808 F.2d 1373 (9th Cir. 1987); *see also Blum v.*
6 *Stenson*, 465 U.S. 886, 895 n.11 (1984). The relevant community is typically the forum in which
7 the district court sits. *Camacho*, 523 F.3d at 979. To determine the prevailing market rate, courts
8 may rely on attorney affidavits as well as “decisions by other courts awarding similar rates for
9 work in the same geographical area by attorneys with comparable levels of experience.” *Trujillo*
10 *v. Orozco*, No. 5:17-cv-00566-EJD, 2018 WL 1142311, at *2 (N.D. Cal. Mar. 2, 2018); *see also*
11 *United Steelworkers of Am. v. Phelps Dodge Corp.*, 896 F.2d 403, 407 (9th Cir. 1990).

12 Here, the relevant community is the Northern District of California. Plaintiffs submitted a
13 detailed itemization of attorneys’ fees and costs. *See generally* Stratford Decl. Both Maloney
14 (partner with 30 years’ experience) and Stratford (counsel with 6 years’ experience) charged an
15 hourly rate of \$475. Stratford Decl. ¶¶ 7a-b, 9. Grech (associate with 5 years’ experience)
16 charged an hourly rate of \$375–\$475. Stratford Decl. ¶¶ 7c, 9, Exh. A. Plaintiffs assert that these
17 hourly rates “are reasonable and comparable to the fees generally charged by attorneys with
18 similar experience, ability, and reputation for work on similar matters.” Stratford Decl. ¶ 8.

19 The Court agrees with Plaintiffs. In examining rates for similar work (business and
20 commercial litigation) and experience (associates, counsels, and partners), courts in the Northern
21 District have found rates in the same range as those charged by the attorneys here to be reasonable.
22 *See, e.g., Superior Consulting Servs., Inc. v. Steeves-Kiss*, No. 17-cv-06059-EMC, 2018 WL
23 2183295, at *5 (N.D. Cal. May 11, 2018) (“[D]istrict courts in Northern California have found
24 that rates of \$475–\$975 per hour for partners and \$300–\$490 per hour for associates are
25 reasonable.”); *Gutierrez v. Wells Fargo Bank, N.A.*, No. C 07-05923 WHA, 2015 WL 2438274, at
26 *5 (N.D. Cal. May 21, 2015) (finding reasonable rates for Bay Area attorneys of \$475–\$975 for
27 partners and \$300–\$490 for associates); *Prison Legal News v. Schwarzenegger*, 608 F.3d 446, 455
28 (9th Cir. 2010) (finding no abuse of discretion in awarding fees at a 2008 hourly rates of \$875 for

1 a partner and \$425 for a fifth-year associate).

2 Thus, the Court finds that the attorneys’ rates here fall within the range determined to be
3 reasonable given the prevailing market in the Northern District of California and the attorneys’
4 skill and experience.

5 **B. Reasonableness of Hours**

6 The Court next considers the reasonableness of the hours expended. A court cannot
7 “uncritically” accept a plaintiff’s representations; rather, it must assess the reasonableness of the
8 hours requested. *Sealy, Inc. v. Easy Living, Inc.*, 743 F.2d 1378, 1385 (9th Cir. 1984). In making
9 this determination, the court can reduce hours when documentation is inadequate, or when the
10 requested hours are redundant, excessive, or unnecessary. *Hensley*, 461 U.S. at 433–34. The
11 moving party bears the burden of providing relevant documentation. *Id.* at 433. Upon examining
12 the documentation, the court should then exclude from the initial lodestar calculation any hours
13 that are not reasonably expended. *Id.* at 434.

14 Here, from August 25, 2018, through July 31, 2019, Plaintiffs’ counsels expended 72 hours
15 on this matter. *See* Mot. 7; Stratford Decl. ¶ 9, Exh. A, at 1, 7. They spent approximately 8 hours
16 on the Complaint, 44 hours on the Motion for Default Judgment, 11 hours on this Motion, and 10
17 hours managing the case (*e.g.*, client conferencing, fact-finding, reviewing documents, and
18 strategizing). *See* Stratford Decl., Exh. A. Seventy-two hours is within the range of what
19 attorneys have spent in other similar default judgment cases. *See, e.g., Century 21 Real Estate,*
20 *LLC v. Heritage Real Estate, Inc.*, No. C 06-7809 WDB, 2007 WL 2023552, at **1, 3, 7–8, 10
21 (N.D. Cal. July 6, 2007) (granting nearly all fees billed for 112.5 hours of work); *Craters &*
22 *Freighters v. Daisychain Enterprises*, C-09-04531 CW (JCS), 2010 WL 11484728, at **1, 11–12
23 (N.D. Cal. Mar. 3, 2010) (granting fees for approximately 140 total hours billed in a case alleging
24 copyright and trademark infringement and unfair business practices); *Century 21 Real Estate LLC*
25 *v. RealtyComp.com*, No. C-14-4774 EMC, 2015 WL 1009660, at **1–3, 8 (N.D. Cal. Mar. 6,
26 2015) (finding that spending approximately 37.4 hours on a similar case was reasonable and
27 necessary); *Coldwell Banker Real Estate, LLC v. DC Property & Loans, Inc.*, No. C 13-4732
28 SBA, ECF 21-1 (requesting fees for 43 hours of work over 6 months), *granted in* 2014 WL

1 5474584 (N.D. Cal. Oct. 27, 2014).

2 Furthermore, the briefs submitted were thorough and clear, explicating why Baskin-
3 Robbins was entitled to relief for the five causes of action. *See generally* Compl.; Mot. for
4 Default J.; Mot. The Complaint provided various exhibits supporting Plaintiffs' claims. *See*
5 *generally* Compl. And the Motion for Default Judgment included several declarations as well as a
6 Reply. *See generally* Decl. of Barry Stratford, ECF 20; Decl. of Gary Zullig, ECF 21; Decl. of
7 Derick Smith, ECF 22; Reply, ECF 23. This Court finds that the kinds of tasks counsel performed
8 were reasonably undertaken to secure Plaintiffs a \$125,423,61 judgment in this case. *See*
9 Judgment ¶ 4; *see also Heritage Real Estate, Inc.*, 2007 WL 2023552, at **7–8 (finding that
10 “preparing the complaint, preparing applications for writs of attachment, responding to filings by
11 the individual defendants, obtaining default, drafting and filing the instant [default judgment]
12 motion, and corresponding with clients, the court, and/or defendants,” were “reasonably
13 undertaken”); *Kerr*, 526 F.2d at 70 (considering the amount involved and results obtained when
14 determining appropriate fee awards).

15 Additionally, the attorneys already “excluded a certain amount of time to eliminate any
16 items that could be construed as duplicative or nonessential.” Stratford Decl. ¶ 5. Upon reviewing
17 the attorneys' fee report, their described work does not appear redundant, excessive, or
18 unnecessary. *See generally* Stratford Decl., Exh. A; *see also Hensley*, 461 U.S. at 433–34. Thus,
19 the Court finds no reason to further reduce the lodestar amount based on the hours expended on
20 this matter.

21 In sum, the Court finds that the work was billed at a reasonable rate given prevailing
22 market norms in the Northern District of California. And the hours spent on this case were
23 reasonable in light of the work accomplished and the skill and expertise of the attorneys.
24 Accordingly, the Court does not find it necessary or appropriate to adjust the lodestar amount.
25 Thus, this Court GRANTS the Motion as to the attorneys' fees.

26 **III. COSTS**

27 Plaintiffs seek “limited costs incurred as a result of this litigation in the amount of
28 \$858.25.” Mot. 1, 8. This Court previously determined that awarding reasonable costs is

1 warranted. *See* Prior Order 13–14. For this Motion, Plaintiffs provided a Bill of Costs and
 2 evidentiary documents such as receipts, invoices, and bank statements verifying charges for filing
 3 and service of process fees. *See generally* Bill of Costs. The following table reflects these costs:

Attorney	Date	Cost
Filing & Docket Fees	9/6/2018	\$400.00
Service of Process Fees	9/7/2018	\$145.05
	9/10/2018	\$313.20
TOTAL		\$858.25

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 8 Plaintiffs’ requested costs are reasonable, especially in light of other similar cases. *See*
 9 *Craters & Freighters*, 2010 WL 11484728, at *12 (awarding \$615.50 in costs for filing and
 10 service of process fees); *Heritage Real Estate, Inc.*, 2007 WL 2023552, at *10 (recommending
 11 \$1,687.77 in costs for filing and service fees, photocopying, and a private investigator’s fee).
 12 Thus, this Court GRANTS Plaintiffs’ Motion for \$858.25 as to the costs.

13 **IV. ORDER**

14 For the foregoing reasons, IT IS HEREBY ORDERED that Plaintiffs shall recover
 15 attorneys’ fees in the amount of \$33,620.00 and costs in the amount of \$858.25, for a total of
 16 \$34,478.25.

17 Plaintiffs may submit a proposed amended judgment to reflect this award.

18
 19 **IT IS SO ORDERED.**

20
 21 Dated: October 17, 2019



BETH LABSON FREEMAN
 United States District Judge