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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 GARCIA, et al,

12 Plaintiffs,

13 v.

14 FORD MOTOR COMPANY, et al,

15 Defendants.

Case No.: 22-cv-1474-GPC

**ORDER GRANTING IN PART
PLAINTIFFS' MOTION FOR
ATTORNEYS' FEES AND COSTS**

[ECF No. 26]

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17 On April 14, 2023, Plaintiffs Araceli Garcia and Mario Garcia (“Plaintiffs”) filed a
18 Motion for Attorneys’ Fees and Costs. ECF No. 26. Defendant Ford Motor Company
19 (“Defendant” or “Ford”) filed an Opposition, (ECF No. 29), and Plaintiffs filed a Reply,
20 (ECF No. 30). For the reasons that follow, the Court **GRANTS** in part Plaintiffs’ request
21 and awards Plaintiffs \$44,909.80 in attorneys’ fees and \$1,350.75 in costs.¹
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24 ¹ The Court notes at the outset that the issue of subject matter jurisdiction was never
25 determined because the Motion for Remand was denied as moot after the Parties settled.
26 This is an unusual procedural posture, because if the Court lacks subject matter
27 jurisdiction, the Court recognizes it could not rule on the pending Motion for Attorneys’
28 Fees and Costs. Nevertheless, the Court finds that diversity jurisdiction exists because the
citizenship of the Parties is diverse, and the amount in controversy could reasonably

1 **BACKGROUND**

2 On April 18, 2020, Plaintiffs purchased a new vehicle from Ken Grody Ford in
3 Carlsbad, California. ECF No. 1-3 ¶ 5. Plaintiffs state the purchased vehicle “suffered
4 from nonconformity(s)” and that Defendant did not replace the vehicle or “otherwise
5 [make] restitution to Plaintiffs pursuant to its obligations [under law].” *Id.* ¶ 11. As such,
6 Plaintiffs filed this action in Orange County Superior Court on April 18, 2022 alleging
7 violations of the Song-Beverly Consumer Warranty Act (California’s “lemon law”). *Id.* at
8 9-11.²

9 On September 29, 2022, Defendant filed a Notice of Removal in this Court. ECF
10 No. 1 at 5. Plaintiffs filed a Motion for Remand on October 26, 2022. ECF No. 6. On
11 December 29, 2022, while the Motion for Remand remained pending, Defendant Ford
12 filed a Notice of Settlement. ECF No. 21. Accordingly, the Court denied the Motion for
13 Remand as moot. ECF No. 24. This Motion for Attorneys’ Fees and Costs followed. ECF
14 No. 26.

15 **LEGAL STANDARD**

16 Under the Song-Beverly Consumer Warranty Act, “[i]f the buyer prevails in an
17 action . . . , the buyer shall be allowed by the court to recover as part of the judgment a
18 sum equal to the aggregate amount of costs and expenses, including attorney’s fees based
19 on actual time expended, determined by the court to have been reasonably incurred by the
20 buyer in connection with the commencement and prosecution of such action.” Cal. Civ.
21 Code § 1794(d). Because this Court has diversity jurisdiction over this action, the Court
22 must apply state substantive law to determine the reasonableness of Plaintiffs’ requested
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25 exceed \$75,000 considering the amount of actual damages alleged in Plaintiffs’
26 Complaint and their request for civil penalties pursuant to the Song-Beverly Act of two
27 times the actual damages. *See* ECF No. 1-3 at 13; *see also* Cal. Civ. Code § 1794(c).

28 ² Page citations reference CM/ECF pagination.

1 fees. *See Mangold v. California Public Utilities Comm.*, 67 F.3d 1470, 1478 (9th Cir.
2 1995).

3 Under California law, the lodestar method (total hours multiplied by the attorney's
4 hourly rate) is the preferred method to award attorneys' fees under the Song-Beverly Act.
5 *See Robertson v. Fleetwood Travel Trailers of California, Inc.*, 144 Cal. App. 4th 785,
6 818-19 (Cal. Ct. App. 2006) (stating California Supreme Court has "held that the lodestar
7 adjustment method is the prevailing rule for statutory attorney fee awards"); *Ketchum v.*
8 *Moses*, 24 Cal. 4th 1122, 1135-36 (Cal. 2001). A court should "make an initial
9 determination of the actual time expended" and then determine "whether under all the
10 circumstances of the case the amount of actual time expended and the monetary charge
11 being made for the time expended are reasonable." *Robertson*, 144 Cal. App. 4th at 817
12 (quoting *Nightingale v. Hyundai Motor America*, 31 Cal. App. 4th 99, 104 (Cal. Ct. App.
13 1994)). To determine reasonableness, a court can consider the complexity of the case, the
14 skill exhibited by the attorneys, and the results achieved. *Id.* The fee award need not be
15 proportionate to the amount of damages recovered. *Graciano v. Robinson Ford Sales,*
16 *Inc.*, 144 Cal. App. 4th 140, 164 (Cal. Ct. App. 2006) (finding legislative policy in favor
17 of award of all fees expended to ensure consumers can pursue small monetary claims).
18 Further, under California law, multipliers or fee enhancements are permitted. *Ketchum*,
19 24 Cal. App. 4th at 1135-36. The prevailing party has the burden to show the fees are
20 reasonable. *Id.* at 817-18.

21 DISCUSSION

22 The Parties do not dispute that Plaintiffs are entitled to attorneys' fees and costs;
23 Defendant simply argues the amount Plaintiffs request is unreasonable. Plaintiffs seek
24 \$48,842.30 in attorneys' fees and \$1,402.50 in costs. ECF No. 26-1 at 7. Plaintiffs state
25 the requested attorneys' fees is based on a lodestar calculation of \$37,571 plus a lodestar
26 multiplier of 0.3 for a fee enhancement of \$11,271.30. *Id.* Plaintiffs state that Defendant
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1 refuses to “offer more than \$20,000.” *Id.* at 6 (citing Sannipoli Decl. ¶¶ 39-41); ECF No.
2 29 at 6 (Defendant’s Opposition).

3 Plaintiffs state this amount is warranted “given Defendant’s insistence on starting
4 discovery and removing this action to Federal Court rather than respond[ing] to
5 Plaintiffs’ early settlement demand.” *Id.* at 7-8. Plaintiffs’ counsel argues that the
6 inherent risk associated with contingency fee agreements, the attorneys’ fair hourly rates,
7 and the comparability of the fee requested to other fees awarded in this District and
8 California state court all support finding the requested amount is reasonable. *Id.* at 14-19.
9 Plaintiffs’ counsel requests a 0.3 fee enhancement multiplier because of (1) the delay in
10 payment and (2) counsel’s “demonstrated expertise” in the matter and the results
11 obtained. *Id.* at 23-24. Plaintiffs’ counsel states they billed 75 hours in this case, (*id.* at 13
12 (citing Sannipoli Decl. ¶¶ 3-4)), and the fee motion includes detailed time records with
13 descriptions of services rendered and receipts showing costs, (*see* ECF No. 26-3, Exhs.
14 A-C).

15 Defendant argues the amount requested and the fee enhancement multiplier is
16 unreasonable given that there was no novelty or special skill involved, there was only
17 basic discovery, and Plaintiffs’ counsel “followed the same playbook using the same
18 stock pleadings they have used countless times before.” ECF No. 29 at 4, 8-9. Defendant
19 urges this Court to “not reward Plaintiffs’ counsel[‘s] poor billing practices and strike
20 improper entries” *Id.* at 4-5. Defendant argues Plaintiffs’ counsel is entitled to no
21 more than \$13,983 in attorneys’ fees. *Id.* at 5. Defendant disputes Plaintiffs’ use of block
22 billing and recovery for interoffice communication and administrative tasks. ECF No. 29
23 at 13-16. Further, Defendant argues the total cost of the invoices attached to Plaintiffs’
24 Motion at Exhibit C is only \$1,277.50, not the \$1,402.50 requested. *Id.*

25 To determine the lodestar value of services Plaintiffs’ counsel expended, the Court
26 must perform two inquiries: (1) calculate the number of hours reasonably spent litigating
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1 this case; and (2) determine the reasonable hourly rate for such services. *Reynolds v. Ford*
2 *Motor Co.*, 261 Cal. Rptr. 3d 463, 468 (Cal. Ct. App. 2020). Plaintiffs’ action involved
3 the filing of a Complaint in state court, discovery, the preparation and filing of a Motion
4 for Remand in this Court as well as a Reply in support thereof, settlement negotiations,
5 and the preparation and filing of this Motion for Attorneys’ Fees and Costs and the Reply
6 in support thereof. Plaintiffs’ counsel submitted billing entries along with their fee
7 request. *See* ECF No. 26-3, Exhs. A-B.

8 **I. Hours Reasonably Expended by Plaintiffs’ Counsel**

9 Under the Song-Beverly Act, the Court must determine the actual, reasonable
10 hours expended by Plaintiffs’ counsel. *Reynolds*, 261 Cal. Rptr. 3d at 468. A court must
11 grant the prevailing buyer recovery of all “attorneys’ fees reasonably expended, without
12 limiting the fees’ to a proportion of any recovery of damages or other monetary relief.”
13 *Id.* (quoting *Graciano*, 144 Cal. App. 4th at 164). Accordingly, at this step, the Court
14 need only determine whether the hours expended by Plaintiffs’ counsel were reasonable.
15 Plaintiffs’ counsel billed 75 hours to prosecute Plaintiffs’ action, although ten of these
16 hours were “estimated” to respond to Defendant’s Opposition to this Motion. ECF No.
17 26-3, Exh. A at 11. Defendant argues counsel’s billable hours are unreasonable because
18 this case involved no novelty and the claims were not difficult. ECF No. 29 at 8.

19 The Court has reviewed extensively the billing entries provided by Plaintiffs’
20 counsel and the Defendant’s objections. The Court finds the entries are reasonable to
21 prosecute Plaintiffs’ action. The majority of the billable hours relate to case management
22 and discovery matters and settlement negotiations. The time entries rarely exceed one
23 hour and are sufficiently detailed for the Court to determine the hours were reasonably
24 expended and not frivolous or redundant. Counsel spent approximately 13 hours
25 researching, drafting, and filing the Motion for Remand and the Reply in support thereof.
26 *See* ECF No. 26-3, Exh. A at 5-6. Counsel expended approximately 8 hours drafting the
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1 attorneys' fees motion and preparing the billing entry exhibits and declaration. *Id.* at 11.
2 Contrary to Defendant's argument, the Court does not see any entries in which it appears
3 Plaintiffs' counsel overcharged for tasks that are likely streamlined as a result of
4 counsel's extensive experience with Song-Beverly litigation. *See* ECF No. 29 at 8
5 (arguing that Plaintiffs' counsel intentionally incurred the maximum amount of legal fees
6 rather than litigate in an efficient manner and making use of "stock pleadings"); *see* ECF
7 No. 26-3, Exh. A at 2 (April 18, 2022 entry billing one hour total to draft complaint,
8 prepare civil case cover sheet, and summons, among other tasks).

9 Defendant does not make any objection to specific entries in Plaintiffs' billing
10 invoice. Rather, Defendant broadly argues that counsel improperly employs block billing
11 and counsel improperly includes hours spent on interoffice communication and
12 administrative tasks. ECF No. 29 at 13-16. The Court finds these objections without
13 merit. First, block billing is not prima facie objectionable. Block billing is first and
14 foremost objectionable when billing records block bill multiple tasks in which only some
15 are entitled to fee recovery. *See Bell v. Vista Unified School Dist.*, 82 Cal. App. 4th 672,
16 689 (Cal. Ct. App. 2000) (objecting to block billing because the court could not break
17 down the hours to determine which were related to Brown Act violations and therefore
18 recoverable and other legal claims that were not recoverable). Here, all of the tasks relate
19 to Plaintiffs' claim under the Song-Beverly Act, and fees are recoverable under this
20 statutory scheme. Further, only two entries exceeded even four hours of billable time—
21 the eight hours billed to open the case, (ECF No. 26-3 Exh. A at 2), and the
22 approximately seven hours spent drafting the attorneys' fees motion, (*id.* at 11). This is
23 not an egregious use of block billing. The vast majority of the entries are less than one
24 hour. Thus, block billing is not objectionable in this context.

25 Second, Defendant argues interoffice communication and administrative tasks are
26 not recoverable fees. The Court agrees with Plaintiffs that Defendant cites no authority
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1 for the allegation interoffice communication is not recoverable. ECF No. 30 at 8.
2 Defendant supports their argument with a citation to a case in which the Supreme Court
3 stated fee recovery is limited to those hours counsel could properly charge a client. *See*
4 (ECF No. 29 at 15) (citing to *Hensley v. Eckerhart*, 461 U.S. 424, 434 (1983)). Defendant
5 does not provide support for finding that attorneys cannot, and do not, bill their clients for
6 modest, reasonable, and necessary interoffice communication.

7 Defendant also argues that Plaintiffs' counsel improperly seeks fees for
8 administrative tasks. ECF No. 29 at 15-16. The case Defendant cites, *Nikko Materials*
9 *USA, Inc. v. R.E. Serv. Co.*, 2006 WL 118438 (N.D. Cal. Jan. 13, 2006), does not stand
10 for the proposition Defendant asserts. *Nikko Materials* concerns fee recovery under the
11 Patent Act and does not reject fees for secretarial or administrative work. In fact, it stands
12 for the opposite proposition. *See Nikko Materials USA, Inc. v. R.E. Serv. Co.*, 2006 WL
13 118438, at *5 (N.D. Cal. Jan. 13, 2006) (stating the Patent Act allows for recovery of not
14 only attorney fees, "but also the recovery of all reasonable expenses incurred in
15 prosecuting the entire action"). The specific billing objections Defendant raises as
16 improper "administrative tasks" are paralegal support services. ECF No. 29 at 16.
17 Paralegal and secretarial support services are recoverable in statutory fee awards. *See*
18 *Salton Bay Marina, Inc. v. Imperial Irrigation Dist.*, 172 Cal. App. 3d 914, 951 (Cal. Ct.
19 App. 1985) (stating "necessary support services for attorneys, e.g., secretarial and
20 paralegal services, are includable within an award of attorney fees"). Thus, the Court
21 does not find these billing entries objectionable.

22 Accordingly, the Court finds the 65 hours Plaintiffs' counsel billed in this action
23 was reasonable. However, Plaintiffs' counsel estimates a total of ten hours for reviewing
24 and replying to Defendant's Opposition to the instant Motion. ECF No. 26-3, Exh. A at
25 11. The Court finds only five hours is reasonable to allot to this task; indeed, counsel
26 billed approximately five hours for the preparation and filing of the Reply in support of
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1 the earlier Motion for Remand. *Id.* at 7. Further, because the hearing on this motion is
2 vacated, Plaintiffs’ counsel need not bill for hearing preparation. Thus, the Court finds
3 Plaintiffs’ counsel can fairly be compensated for 70 billable hours in this action. The
4 Court must next determine if the hourly rates are reasonable.

5 **II. Reasonable Hourly Rates**

6 “Reasonable hourly compensation is based on ‘prevailing hourly rates’ in the
7 community, thereby ‘anchoring the calculation’ to an objective standard.” *Reynolds*, 261
8 Cal. Rptr. 3d at 468 (quoting *Ketchum*, 24 Cal. 4th at 1131-32)). In this action, Plaintiffs’
9 counsel billed attorney rates between \$475 and \$605 per hour. ECF No. 26-3, Exh. B at
10 14. Plaintiffs’ counsel billed paralegal and legal assistants at rates from \$235 to \$265 per
11 hour. *Id.* at 15. Counsel argues these fee rates are reasonable given the contingent nature
12 of the litigation, the extensive experience of Plaintiffs’ counsel with Song-Beverly
13 claims, and the fact that the hourly rates are at or below the rates typically charged in the
14 Southern California market. ECF No. 26-1 at 16.

15 Defendant does not appear to argue that the hourly rates are unreasonable or out of
16 line with the current market rate.³ The Court agrees this case did not present novel or
17 complex issues. However, the attorneys involved are highly skilled in Song-Beverly
18 cases, and the law firm, Bickel Sannipoli APC, is known as a “lemon law” firm
19 throughout the state of California. ECF No. 26 at 14. The civil practice of the firm is
20 exclusively limited to Song-Beverly claims. *Id.* The attorneys in this action have many
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24 ³ In a confusing fashion, Defendant states that Plaintiffs’ counsel requests \$276,439 in
25 attorneys’ fees with rates as high as \$890.50 per hour if a multiplier is added. ECF No. 29
26 at 9. Plaintiffs’ counsel does not request anything close to this amount—they request
27 48,842.30 in attorneys’ fees, including a positive fee enhancement multiplier of .3, and
28 the highest hourly rate is \$605.

1 years' experience litigating Song-Beverly actions and have a proven track record of
2 success. *Id.* at 15; *see also* Sannipoli Decl. ¶ 43.

3 In addition, Plaintiffs' counsel's hourly rates are similar to rates that have been
4 upheld in this District and in California state court. In 2020, Judge Whelan in the
5 Southern District of California awarded counsel's firm attorneys' fees in a Song-Beverly
6 case in which the highest-end attorney rate was \$655. *See Chavez v. Jaguar Land Rover*
7 *North America, LLC*, 2020 WL 376209, at *2 (S.D. Cal. Jan. 23, 2020). Taking into
8 account inflation, the Court finds counsel's currently hourly rates are reasonable. Thus,
9 the Court awards attorneys' fees in the amount of \$34,546.

10 **III. Fee Enhancement Multiplier**

11 "Once the touchstone or lodestar figure . . . is calculate as 'the basic fee,' 'it may
12 be adjusted by the court [by applying a multiplier] based on factors including . . ., (1) the
13 novelty and difficulty of the questions involved, (2) the skill displayed in presenting
14 them, (3) the extent to which the nature of the litigation precluded other employment by
15 the attorneys, [and] (4) the contingent nature of the fee award.'" *Reynolds*, 261 Cal. Rptr.
16 3d at 468.

17 Plaintiff's counsel argues they are entitled to a .3 multiplier because of the delay in
18 receiving payment and because of "the skill displayed in presenting the case, and the
19 results obtained." ECF No. 26 at 23. The Court finds this multiplier is warranted and
20 appropriate. Defendant does not in substance dispute the application of a multiplier for
21 these *specific* reasons; Defendant simply argues that the fee is excessive and thus no
22 multiplier is warranted. ECF No. 29 at 10.

23 Under California law, courts can apply positive multipliers to account for the delay
24 between when services were actually rendered and when payment is received. *See*
25 *Graham v. Daimler Chrysler Corp.*, 21 Cal. Rptr. 3d 331, 355 (Cal. 2004). "Court-
26 awarded fees are normally received long after the legal services are rendered. That delay
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1 can present cash-flow problems for the attorneys. In any event, payment today for
2 services rendered long in the past deprives the eventual recipient of the value of the use
3 of the money in the meantime, which use, particularly in an inflationary era, is valuable.
4 A percentage adjustment to reflect the delay in receipt of payment therefore may be
5 appropriate.” *Id.* (quoting *Copeland v. Marshall*, 641 F.2d 880, 893 (D.C. Cir. 1980)).
6 Here, Plaintiffs’ counsel has not received any payment for legal services rendered in this
7 action since the action commenced in February 2022. *See* ECF No. 26-3 at 2. Thus, a
8 modest multiplier of 0.2 reasonably accounts for this sixteen-month delay.

9 Further, the Court finds that a positive 0.1 multiplier is appropriate given the
10 results obtained. Plaintiffs’ counsel achieved a settlement of “restitution [] for payments
11 made toward the subject vehicle, \$1,000 for incidental expenses, and an agreement to pay
12 off Plaintiffs’ outstanding loan obligation.” ECF No. 26 at 6. This is precisely what
13 Plaintiffs hoped to achieve at the outset of the litigation. *Id.*

14 Accordingly, the Court finds support for the requested fee enhancement of 0.3. The
15 Court awards attorneys’ fees in the amount of \$44,909.80.

16 **IV. Costs**

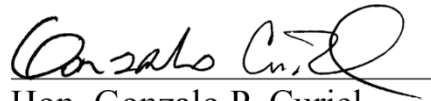
17 Plaintiffs’ Motion requests \$1,402.50 in costs and expenses. ECF No. 26 at 24.
18 Defendant does not dispute that counsel is owed costs and expenses, simply that the
19 evidence only accounts for \$1,277.50, a discrepancy of \$125. ECF No. 29 at 17.
20 Plaintiffs’ Reply states the initial request for costs included an estimate of \$125 to print
21 and deliver courtesy copies of the Motion for Attorneys’ Fees to this Court. ECF No. 30
22 at 11. In their Reply, Plaintiffs’ counsel states that the actual cost for the courtesy copies
23 was \$73.25. *Id.* Plaintiffs’ counsel accordingly revises the cost request to \$1,350.75.
24 Accordingly, the Court grants Plaintiffs’ request for \$1,350.75 in costs and expenses.
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1 **CONCLUSION**

2 For the reasons above, the Court **GRANTS** in part Plaintiffs’ Motion for
3 Attorneys’ Fees and Costs. The Court grants Plaintiffs’ counsel \$44,909.80 in attorneys’
4 fees and \$1,350.75 in costs. The attorneys’ fees calculation includes a fee enhancement of
5 0.3 to account for the delay in payment and the results obtained.

6 **IT IS SO ORDERED.**

7 Dated: June 12, 2023

8 
9 Hon. Gonzalo P. Curiel
United States District Judge