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6 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

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9 THOMAS WEINSTEIN,

10 Plaintiff,

11 v.

12 MANDARICH LAW GROUP, LLP,

13 Defendant.
14

Case No. C17-1897 RSM

ORDER GRANTING PLAINTIFF'S
MOTION FOR ATTORNEY'S FEES AND
COSTS

15 This matter comes before the Court on Plaintiff Thomas Weinstein's Motion for
16 Attorney's Fees and Costs under the Fair Debt Collection Practices Act ("FDCPA"). Dkt. #44;
17 *see also* 15 U.S.C. § 1692k(a)(3). Defendant Mandarich Law Group acknowledges that
18 reasonable attorney's fees are awardable in this case but challenges the hourly rate and number
19 of hours requested by Plaintiff. Dkt. #45.
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21 District courts have broad discretion to determine the reasonableness of fees. *Gates v.*
22 *Deukmejian*, 987 F.2d 1392, 1398 (9th Cir. 1992). To make this determination in FDCPA
23 cases, courts determine the "lodestar amount," which is calculated by multiplying the number
24 of hours reasonably expended by a reasonable hourly rate. *Camacho v. Bridgeport Fin., Inc.*,
25 523 F.3d 973, 978 (9th Cir. 2008). The lodestar figure is presumptively a reasonable fee
26 award. *Id.* at 977. The court may adjust the lodestar figure up or down based upon the factors
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1 listed in *Kerr v. Screen Extras Guild, Inc.*, 526 F.2d 67, 70 (9th Cir.1975). The court need not
2 consider the *Kerr* factors, however, unless necessary to support the reasonableness of the fee
3 award. *Cairns v. Franklin Mint Co.*, 292 F.3d 1139, 1158 (9th Cir. 2002).¹ In the Ninth
4 Circuit, “the determination of a reasonable hourly rate ‘is not made by reference to the rates
5 actually charged the prevailing party.’” *Welch v. Metro. Life Ins. Co.*, 480 F.3d 942, 946 (9th
6 Cir. 2007) (quoting *Mendenhall v. Nat’l Transp. Safety Bd.*, 213 F.3d 464, 471 (9th Cir. 2000)).
7 “Rather, billing rates should be established by reference to the fees that private attorneys of an
8 ability and reputation comparable to that of prevailing counsel charge their paying clients for
9 legal work of similar complexity.” *Id.* (internal quotation omitted). “Affidavits of the
10 plaintiffs’ attorney and other attorneys regarding prevailing fees in the community, and rate
11 determinations in other cases, particularly those setting a rate for the plaintiffs’ attorney, are
12 satisfactory evidence of the prevailing market rate.” *United Steelworkers of Am. v. Phelps*
13 *Dodge Corp.*, 896 F.2d 403, 407 (9th Cir. 1990). “The party seeking fees bears the burden of
14 documenting the hours expended in the litigation and must submit evidence supporting those
15 hours...” *Welch*, 480 F.3d at 945-46 (citing *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983)).
16 It is reasonable for a district court to conclude that the party seeking attorney’s fees fails to
17 carry its burden of documenting the hours expended when that party engages in “block billing”
18 because block billing makes it more difficult to determine how much time was spent on
19 particular activities. *Welch*, 480 F.3d at 948. The district court “should exclude any hours ‘that
20 are excessive, redundant, or otherwise unnecessary.’” *McCown v. City of Fontana*, 565 F.3d
21 1097, 1102 (9th Cir. 2009) (quoting *Hensley*, 461 U.S. at 434).
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28 ¹ Additionally, numerous courts have subsequently held that the bulk of these factors are subsumed in the lodestar calculation. *See, e.g., Blum v. Stenson*, 465 U.S. 886, 898-900, 104 S. Ct. 1541, 79 L. Ed. 2d 891 (1984).

1 The Court will first address the hourly rate. The Court finds that the hourly rates of
2 \$400 for Mr. Anderson and \$350 for Mr. Santiago are reasonable based on the experience,
3 skill, and education of each attorney, and supported with citations to relevant cases where
4 similar billing rates were awarded and at least one declaration from an attorney practicing in
5 the community. *See* Dkts. #44-1, #44-2, and #44-3.

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7 The Court next turns to the hours requested. Counsel has attached a detailed timesheet
8 outlining all time entries in this case, with fees totaling \$81,125. Dkt. #44-1, Ex. A. There are
9 no block-billed entries, and there are no clerical tasks billed as attorney tasks. The Court finds
10 that the hours requested generally reflect an effort to avoid duplicative billing between counsel.
11 The entries attacked in Defendant's Response brief as excessive reflect work that supported
12 Plaintiff's case, and these entries do not strike the Court as particularly excessive. These
13 entries will not be cut. Plaintiff also subsequently request \$2,320 for time spent drafting a
14 Reply brief. The Court will award Plaintiff all hours as requested.

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16 The costs requested, \$1,638.94, also appear proper. Defendant takes issue with the fact
17 that Plaintiff fails to provide receipts for any of these costs, however Plaintiff attaches receipts
18 to his Reply brief. *See* Dkt. #46-1, Ex. B. Costs for depositions not used at trial but relied on at
19 the summary judgment stage are recoverable.

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21 Having reviewed the relevant briefing and the remainder of the record, the Court hereby
22 finds and ORDERS that Plaintiff's Motion for Attorneys' Fees (Dkt. #44) is GRANTED.
23 Defendants shall pay Plaintiff \$83,445 in attorney's fees and \$1,638.94 in costs.

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DATED this 22nd day of February 2019.



RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT JUDGE

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