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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

RONALD MOORE,

Case No. 1:14-cv-01178-SKO

Plaintiff,

**ORDER ON PLAINTIFF’S MOTION FOR
AN AWARD OF ATTORNEY’S FEES
AND LITIGATION EXPENSES**

v.

CHASE, INC., d/b/a SLATER SHELL,

(Doc. 110)

Defendant.

_____ /

I. INTRODUCTION

Plaintiff Ronald Moore (“Plaintiff”) brought this action against Chase, Inc., d/b/a Slater Shell (“Defendant”), alleging that Defendant discriminated against him based upon his disability as prohibited by Title III of the Americans with Disabilities Act, 42 U.S.C. § 12101, *et seq.* (“ADA”) and by state law. (*See generally* Docs. 1 (“Complaint”); 30 (“Amended Complaint”).) On March 7, 2016, the Court granted summary judgment in favor of Plaintiff on his ADA and state law claims and entered judgment in favor of Plaintiff. (Docs. 101; 102.) Presently before the Court is Plaintiff’s motion for \$105,284.84 in attorney’s fees and costs pursuant to the ADA and state law. (Doc. 110-1 (requesting \$97,974 in attorney’s fees and \$7,310.84 in litigation expenses).)

Having reviewed the parties’ papers and all supporting material, the matter was found suitable for decision without oral argument pursuant to Local Rule 230(g), and the hearing was vacated. For the following reasons, Plaintiff’s motion for attorney’s fees and costs is GRANTED

1 IN PART.

2 **II. ANALYSIS**

3 **A. Legal Standard**

4 “The ADA authorizes a court to award attorneys’ fees, litigation expenses, and costs to a
5 prevailing party.” *Lovell v. Chandler*, 303 F.3d 1039, 1058 (9th Cir. 2002); *see* 42 U.S.C.
6 § 12205; 28 C.F.R. § 35.175. The court may also award attorney’s fees to a prevailing party in a
7 suit brought under the California “Unruh Act.” *See* Cal. Civ. Code §§ 52(a), 55.55.

8 To determine the amount of a reasonable attorney’s fee, the court must apply a two-step
9 analysis. *Gonzalez v. City of Maywood*, 729 F.3d 1196, 1202 (9th Cir. 2013). First, the court
10 must determine what constitutes a reasonable fee using the lodestar method. *Id.* This lodestar
11 figure is calculated by multiplying the number of hours reasonably expended on the litigation by a
12 reasonable hourly rate. *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983). There is a “strong
13 presumption” that the lodestar figure constitutes an appropriate fee award. *United Steelworkers of*
14 *Am. v. Phelps Dodge Corp.*, 896 F.2d 403, 406 (9th Cir. 1990).

15 Second, the court may then adjust the lodestar figure upward or downward based on a
16 variety of factors. *Gonzalez*, 729 F.3d at 1202. In determining the size of an appropriate fee
17 award, the court need not “achieve auditing perfection.” *Fox v. Vice*, 563 U.S. 826, 838 (2011).
18 During either of these steps, the court may use estimates and take into account its overall sense of
19 the litigation to determine a reasonable fee. *Id.*

20 **B. Lodestar Computation¹**

21 **1. Reasonable Hourly Rate**

22 The reasonable hourly rate is determined according to “the prevailing market rates in the
23 relevant community,” *Blum v. Stenson*, 465 U.S. 866, 895 (1984), “for similar work performed by
24 attorneys of comparable skill, experience, and reputation,” *Chalmers v. City of Los Angeles*, 796
25 F.2d 1205, 1210-11 (9th Cir. 1986). The relevant legal community “is the forum in which the

26 ¹ Defendant devoted much of its opposition brief to arguing that the fee agreement between Plaintiff and Plaintiff’s
27 counsel is unconscionable and violates public policy. (Doc. 114 (citing California Rule of Professional Conduct 4-
28 200).) The Court declines to evaluate whether the contingency fee arrangement entered into between Plaintiff and his
counsel comports with the California Rules of Professional Conduct; as such an evaluation is outside the scope of the
instant motion.

1 district court sits.” *Prison Legal News v. Schwarzenegger*, 608 F.3d 446, 454 (9th Cir. 2010)
2 (citation omitted). The relevant community in this case is the Sacramento Division of the Eastern
3 District of California.

4 The burden is on the applicant to produce satisfactory evidence that the requested rate is
5 “in line with those prevailing in the community for similar services by lawyers of reasonably
6 comparable skill, experience and reputation.” *Blum*, 465 U.S. at 895 n.11; *accord Gonzalez*, 729
7 F.3d at 1206. *See also Nadarajah v. Holder*, 569 F.3d 906, 916 (9th Cir. 2009). “The hourly rate
8 for successful civil rights attorneys is to be calculated by considering certain factors, including the
9 novelty and difficulty of the issues, the skill required to try the case, whether or not the fee is
10 contingent, the experience held by counsel and fee awards in similar cases.” *Moreno v. City of*
11 *Sacramento*, 534 F.3d 1106, 1114 (9th Cir. 2008). While disability access cases are a subset of
12 civil rights practice, the reasonable hourly rate merited in routine disability access cases typically
13 falls below the hourly rate charged in more complicated civil rights cases. *See Johnson v. Wayside*
14 *Prop., Inc.*, Civ. No. 2:13-1610 WBS AC, 2014 WL 6634324, at *6 (E.D. Cal. Nov. 21, 2014).

15 Plaintiff seeks hourly rates of \$300 for Ms. Moore, \$115 for Ms. Sacks and \$115 for Ms.
16 Law. (Docs. 110; 116.) Defendant contends that an hourly rate of \$200 for Ms. Moore and \$75
17 for Ms. Sacks and Ms. Law is appropriate. (Doc. 114, pp. 11-14.)

18 **a. Plaintiff’s Counsel Ms. Moore**

19 The Court notes that Plaintiff’s counsel acknowledges this case involved a fairly straight-
20 forward application of law with which she is exceedingly familiar, and that it did not present novel
21 or difficult issues requiring a high level of skill or specialization. (Docs. 110-1, p. 6; 110-2
22 (Declaration of Tanya Moore), p. 2.) The Court has also examined the experience of Ms. Moore
23 in previous, unrelated disability access cases brought in this district where an hourly rate of \$300
24 was found reasonable, *see, e.g., Moore v. Watkins*, No. 1:15-cv-00115-JAM-GSA, 2015 WL
25 5923404, at *5 (E.D. Cal. Oct. 9, 2015); *Moore v. E-Z-N-Quick*, No. 1:13-cv-01522-LJO-SAB,
26 2014 WL 1665034 at * 6 (E.D. Cal., April 24, 2014) (\$300.00 per hour); *Moore v. Ruiz*, No. 1:11-
27 cv-2159-LJO-GSA, 2012 WL 3778874, at * 6 (E.D. Cal., Aug. 31, 2012) (\$300 per hour); *Ruiz v.*
28 *Gutierrez v. Onanion et al.*, No. 1:11-cv-00579-SMS, 2012 WL 1868441 at * 2 (E.D. Cal. May

1 22, 2012 (\$300 per hour), as well as cases where an hourly rate of \$300 was found excessive, *see*
2 *Kalani v. Statewide Petroleum, Inc.*, No. 2:13-cv-02287-KJM-AC, 2014 WL 4230920, at *6 (E.D.
3 Cal. Aug. 24, 2014) (limiting award to \$250 per hour).

4 Ms. Moore is the “principal” of the Moore Law Firm, has litigated over 1,000 disability
5 cases, and though she has practiced law for over 15 years she has spent only 7 years specializing
6 in disability access litigation. (Moore Decl., ¶¶ 2-3, 5 (noting that she has reduced her normal
7 hourly rate of \$400 to \$300 for the purposes of this action).) The undersigned is persuaded by the
8 court’s rationale in *Kalani*, where the Court found that Ms. Moore’s requested hourly rate of \$300
9 was high. *Kalani*, 2014 WL 4230920, at *6.

10 In *Kalani*, the Court noted that \$300 per hour was a reasonable hourly rate for partners
11 with two decades of civil rights experience, and that \$250 would be a reasonable hourly rate for a
12 partner with Ms. Moore’s level of experience, between seven and ten years’ civil rights experience
13 practicing in the Sacramento area. *Id.* (citing *Johnson v. Allied Trailer Supply*, No. CIV. 2:13-
14 1544-WBS, 2014 WL 1334006, at *6 (E.D. Cal. Apr. 3, 2014) (finding \$300 to be reasonable
15 hourly rate for partners with twenty years’ civil rights experience); *Lehr v. City of Sacramento*,
16 No. 2:07-cv-01565-MCE-GGH, 2013 1326546, at *8 (E.D. Cal. Apr. 2, 2013) (awarding an
17 hourly rate of \$400 to a litigator with “over 40 years of relevant litigation experience” and finding
18 \$230 to \$260 to be reasonable hourly rates for a lawyer with between seven and ten years’ civil
19 rights experience)); *see also Jones v. County of Sacramento*, Civ. No. 2:09-1025-DAD, 2011 WL
20 3584332, at *8 (E.D. Cal. Aug. 12, 2011) (finding that an hourly rate of \$350 for a civil rights
21 attorney with 35 years of litigation experience was “in line with those prevailing in the
22 Sacramento market”). The Court is persuaded that an hourly rate of \$250, the rate fixed by the
23 *Kalani* court, is appropriate to compensate Ms. Moore for her time expended in this litigation
24 based on her level of civil rights experience and expertise in ADA litigation. *See Kalani*, 2014
25 WL 4230920, at *6.

26 Defendant further disputes that Ms. Moore cannot recover for her travel time between her
27 office in San Jose and Fresno, because she allegedly owns a home within the Fresno area.
28 (Doc. 114, pp. 12-13.) Defendant, however, has not provided any authority that Ms. Moore’s

1 travel time must be discounted in whole or in part based on her alleged access to lodging within
 2 the Fresno metropolitan area. In this district an attorney’s travel time is customarily compensated
 3 at an attorney’s normal hourly rate, and so long as her travel time is “reasonable” Ms. Moore’s
 4 travel time will be compensated. *See Jones v. McGill*, No. 1:08-cv-00396-LJO-DLB, 2009 WL
 5 1862457 at *3 (E.D. Cal. June 29, 2009) (awarding 15 hours of attorney travel time for meetings
 6 with experts and witnesses as “reasonable”); *Davis v. Sundance Apartments*, No. CIV. S-07-1922-
 7 FCD-GGH, 2008 WL 3166479 at *5 (E.D. Cal. Aug.5, 2008) (awarding 6 hours of attorney travel
 8 time because it “was essential to the case, and thus, reasonable.”); *Estate of Kligge v. Fidelity*
 9 *Mortg. of Cal.*, No. CIV F 05-1519-AWI-DLB, 2008 WL 171031 at *3 (E.D. Cal. Jan.18, 2008)
 10 (awarding 15.8 hours of attorney travel time); *Chapman v. Pier 1 Imports, Inc.*, No. CIV. S-04-
 11 1339-LKK-DAD, 2007 WL 2462084 at *4 (E.D. Cal. Aug.24, 2007) (awarding 18 hours of
 12 attorneys’ fees attributable to travel time from counsel’s office in Chico to Sacramento); *Cohen v.*
 13 *Williams*, No. CIV. S-06-605-FCD-DAD, 2007 WL 174329, at *4 (E.D. Cal. Jan.22, 2007)
 14 (awarding 1.5 hours of travel time from attorney's office to inspection site).

15 **b. Plaintiff’s Paralegals Ms. Sacks and Ms. Law**

16 Courts have repeatedly determined prevailing hourly rates for paralegals in the Eastern
 17 District to be \$75 per hour. *Allmendinger v. Oxford Law, LLC*, No. 2:14-cv-01990-KJM-EFB,
 18 2016 WL 146230, at *5 (E.D. Cal. Jan. 13, 2016); *Lee-Tzu Lin v. Dignity Health-Methodist Hosp.*
 19 *of Sacramento*, No. S-14-0666-KJM-CKD, 2014 WL 5698448, at *4 (E.D. Cal. Nov. 4, 2014);
 20 *Kalani*, 2014 WL 4230920, at *6; *Deocampo v. Potts*, 2:06-cv-1283-WBS, 2014 WL 788429, at
 21 *9 (E.D.Cal. Feb.25, 2014); *Passport Health, Inc. v. Travel Med, Inc.*, No. 2:09-CV-01753-GEB,
 22 2011 WL 6211874, at *2 (E.D. Cal. Dec. 14, 2011); *Friedman v. Cal. State Emps. Ass’n*, 2:00-
 23 101-WBS-DAD, 2010 WL 2880148, at *4 (E.D. Cal. July 21, 2010) (noting that “the paralegal
 24 rate favored in this district is \$75 per hour” (citations and internal quotation marks omitted)). The
 25 Court will therefore apply an hourly rate of \$75 for the time expended by Plaintiff’s paralegals.

26 Further, as a general rule, “purely clerical or secretarial tasks should not be billed at a
 27 paralegal rate, regardless of who performs them.” *Missouri v. Jenkins by Agyei*, 491 U.S. 274, 288
 28 n.10 (1989). Those tasks include, but are not limited to: creating indexes for a binder; filing

1 emails, memoranda, and other correspondence; updating the case calendar with new dates;
2 copying, scanning, and faxing documents; and filing or serving documents. *Prison Legal News*,
3 561 F. Supp. 2d at 1102. The legal market in this area would not bear such a cost. *Missouri*, 491
4 U.S. at 287 n.9. Further, Plaintiff has produced no evidence which supports that such an award is
5 the prevailing market rate. *United Steel Workers of America v. Phelps Dodge Corp.*, 896 F.2d
6 403, 407 (9th Cir. 1990) (stating that affidavits of plaintiff's attorney regarding prevailing fees in
7 the community and rate determinations in other cases are satisfactory evidence of the prevailing
8 market rate); *Joe Hand Promotions, Inc. v. Albright*, Civ. No. 2:11-2260-WBS-CMK, 2013 WL
9 4094403, at *3 (E.D. Cal. Aug. 12, 2013) (requiring such a showing for tasks which "appear to be
10 secretarial or administrative in nature, including the preparation, filing and service of various
11 papers; public records research of defendant; and review of court documents") (citing *Trs. of*
12 *Const. Indus. & Laborers Health & Welfare Trust v. Redland Ins. Co.*, 460 F.3d 1253, 1257 (9th
13 Cir. 2006)).

14 "In fact, given the large amount of attorney time claimed as well as the large amount of
15 time expended by paralegals, the fee request for the clerical work . . . serves to 'spiral the cost' of
16 disability rights litigation, which cannot have been Congress's intent in providing for attorney's
17 fees in the statute." *White v. Sutherland*, No. CIV S-03-2080-CMK, 2005 WL 1366487, at *10
18 (E.D. Cal. May 6, 2005) (citing *Cameo Convalescent Center, Inc. v. Senn*, 738 F.2d 836, 846 (7th
19 Cir. 1984) (*cert. denied* 1985) (stating that reducing the spiraling costs of civil rights litigation
20 furthers the policy underlying the civil rights statutes)). As Plaintiff has not shown that billing --
21 at a profit -- for secretarial time is the prevailing practice in the local community, the Court
22 declines to make such an award here. *Id.* Further, Plaintiff has not provided any guidance to
23 distinguish the tasks for which fees are requested here from the ordinary administrative tasks
24 typically subsumed within the overhead expenses of a law firm. Therefore, the Court will conduct
25 a line-by-line review to exclude any hours reasonably attributed to an administrative assistant from
26 recompense at a paralegal rate.

27 In sum, the Court finds the following hourly rates to be reasonable: \$250 for Ms. Moore
28 and \$75 for paralegals Ms. Sacks and Ms. Law.

1 **2. Number of Hours Expended & Adjustments to the Lodestar**

2 “The prevailing party has the burden of submitting billing records to establish that the
3 number of hours it has requested are reasonable.” *Gonzalez*, 729 F.3d at 1202. The court may
4 reduce the hours “where documentation is inadequate; if the case was overstaffed and hours are
5 duplicated; [or] if the hours expended are deemed excessive or otherwise unnecessary.”
6 *Chalmers*, 796 F.2d at 1210.

7 Plaintiff has submitted billing statements itemizing the time spent by attorney Tanya
8 Moore and paralegals Marejka Sacks and Whitney Law. (Docs. 110-2 (Declaration of Tanya
9 Moore); 110-3 (Billing Statement for Tanya Moore); 110-4 (Declaration of Marejka Sacks); 110-5
10 (Billing Statement for Marejka Sacks); 110-6 (Declaration of Whitney Law); 110-7 (Billing
11 Statement for Whitney Law); 116-1 (Supplemental Declaration of Tanya Moore); 116-3
12 (Supplemental Declaration of Marejka Sacks.) The billing statements indicate that Ms. Moore
13 billed 254.40 hours, Ms. Sacks billed 181.90 hours, and Ms. Law billed 66.9 hours, totaling
14 257.20 hours of attorney time and 243.70 hours of paralegal time. (*See id.*; Docs. 110-1, p. 18;
15 116.) Defendant contends Plaintiff’s fee request is both excessive and unreasonable, and appears
16 to object on a page-by-page basis to the individual billing entries. (*See* Doc. 114, pp. 11-14.) The
17 Court has reviewed Plaintiff’s submitted billing statements to determine compensation.

18 **a. Plaintiff’s Counsel Ms. Moore**

19 In the motion for attorney’s fees, Plaintiff seeks to recover attorney’s fees for 257.20 hours
20 spent on the case by Ms. Moore. (Docs. 110-1; 110-2, 110-3.) With respect to the time Ms.
21 Moore spent on the case, the amounts claimed for certain tasks are reasonable, but some of the
22 time spent is unreasonable, duplicative, or inadequately documented and should be reduced.

23 First, Ms. Moore has billed for certain tasks that the Court has deemed to be frivolous or
24 improper. Ms. Moore spent 5.7 hours on the ex parte application to order Defendant to turn over
25 subpoenaed medical records (*see* Docs. 47; 103 (finding Plaintiff’s application “frivolous” within
26 the meaning of Fed. R. Civ. P. 11), 10.7 hours on the motion for sanctions against Defense counsel
27 (*see* Doc. 99 (denying Plaintiff’s motion to “police [counsel’s] *out-of-court* conduct” and
28 admonishing counsel to conduct themselves with candor and professionalism)), and 1.6 hours in

1 preparation for a hearing vacated from the court’s docket (*see* Doc. 36). The Court will therefore
 2 reduce Ms. Moore’s time by 18.0 hours.

3 Second, Ms. Moore has unreasonably billed for certain clerical and administrative tasks.
 4 When considering the time entries in total, the amount of time spent reviewing the docket is
 5 unreasonable. Such entries are either excessive or are clerical tasks that should not be billed at an
 6 attorney rate. *See Missouri*, 491 U.S. at 288, n.10 (purely clerical tasks will not be compensated).

Date:	Description:	Time Billed:	Time Disallowed:
02/16/2016	Reviewed minute order on the court’s own motion pursuant to local rule	0.10	0.10
02/01/2016	Reviewed minute order on the Court’s own motion and pursuant to local rule 230(g)	0.10	0.10
12/09/2015	Reviewed minute order after further review, the court resets the hearing on plaintiff’s motion	0.10	0.10
11/23/2015	Reviewed order discharging September 29, 2015	0.10	0.10
11/12/2015	Reviewed Minute Order	0.10	0.10
11/05/2015	Communications with Dr. Levin to confirm his availability	0.10	0.10
11/04/2015	Communications with the expert re cancellation of his deposition	0.10	0.10
10/28/2015	Reviewed Minute Orders	0.10	0.10
10/08/2015	Reviewed Certificate of service by Ronald Moore	0.10	0.10
09/29/2015	Reviewed Minute Order: The Court finds the Motion for an order to show cause and extend fact discovery	0.10	0.10
08/31/2015	Reviewed Clerk’s Notice	0.10	0.10
08/18/2015	Reviewed the court order. Conference with MS re same	0.40	0.10
07/21/2015	Reviewed Minute Order	0.10	0.10
07/07/2015	Communications with the court re scheduling of a discovery conference	0.40	0.40
06/05/2015	Reviewed Court’s minute orders	0.10	0.10

1	05/28/2015	MINUTE ORDER The Court is in receipt of the parties' informal letter briefs	0.10	0.10
2				
3	04/13/2015	Notice of Withdrawal of an Affirmative Defense	0.20	0.20
4	03/23/2015	Reviewed notice of non-opposition	0.10	0.10
5	03/17/2015	Minute order - the court finds the Motion to File an Amended Answer suitable for decision without oral argument	0.10	0.10
6				
7	03/13/2015	Motion to Amend the Complaint filed with the court reviewed for accuracy	0.10	0.10
8				
9	01/29/2015	Minutes - Telephonic Scheduling Conference held	0.10	0.10
10	01/23/2015	Minute order	0.10	0.10
11	11/26/2014	Reviewed multiple communications from [Kharazi]'s office re continuance of the site inspection and memo from WL re same. Reviewed calendar. Instructions to WL and IM re further communications with the opposing counsel re same	0.50	0.10
12				
13				
14	11/05/2014	[. . .] Reviewed the calendar re dates for the site inspection [. . .]	0.40	0.10
15				
16	09/26/2014	Reviewed decline to proceed before US Magistrate Judge filed by Chase, Inc.	0.10	0.10
17				
18	08/30/2014	Reviewed Minute Order - CMC Continued [. . .]	0.10	0.10
19	08/28/2014	Reviewed POS of Summons - Chase, Inc. received from the process server, instructions re filing, reviewed filed POS and due dates calendared by DG	0.10	0.10
20				
21	07/29/2014	Reviewed tasks/deadlines entered. Instructions to DG re service	0.10	0.10
22				
23	07/29/2014	Reviewed tasks/deadlines entered. Instructions to DG re service	0.10	0.10
24				
25	07/29/2014	Reviewed scheduling order and instructions re processing and calendaring	0.10	0.10

26 The court will therefore further reduce Ms. Moore's hours billed by 3.4 hours.

27 //

28 //

1 Third, Ms. Moore has billed for entries duplicative of tasks billed by paralegals:

2	Date:	Description:	Time Billed:	Time Disallowed:
3	03/14/2016	Reviewed Bill of Costs (prepared by Ms. Sacks)	0.10	0.10
4	03/10/2016	Reviewed time and expense entries, began preparation of motion for attorney fees and communications with MS re same	8.00	0.10
5				
6				
7	03/07/2016	Reviewed correspondence from [Kharazi] re appeal and communications with MS re preparation of the response	0.50	0.20
8				
9	03/07/2016	Reviewed the court's order on MSJ. Conference with MS re same	0.50	0.10
10				
11	03/07/2016	Preparation for the pretrial conference, draft/revise pretrial statement and communications with MS re witnesses for trial	1.00	0.50
12				
13	03/02/2016	Preparation of mandatory pretrial statement	0.50	0.50
14				
15	02/29/2016	Communications with MS re preparation for mandatory pretrial meet and confer. Reviewed court order. Correspondence with Mr. Kharazi re same. Reviewed his response.	0.40	0.10
16				
17	02/03/2016	[. . .] Reviewed deposition transcripts provided via dropbox link and communications with IM re same. Instructions to MS re communications with Mr. Kharazi's office re statement of undisputed facts. Reviewed email exchange between Mr. Kharazi and MS.	2.40	1.30
18				
19				
20				
21	12/08/2015	Began preparation for the dispositive motion, reviewed deadlines and instructions to MS re communications with the court. Reviewed response by Kharazi	0.60	0.30
22				
23	11/17/2015	Reviewed memo from IM re communications with court reporter	0.10	0.10
24				
25	11/16/2015	Instructions to IM re communications with the court reporter re transcript	0.10	0.10
26				
27	11/13/2015	Instructions to MS re preparation of the communication re meet and confer with Mr. Kharazi of 11/13/2015. Reviewed research re privilege log and revised/finalized the email to Mr. Kharazi (1/2 Millennium)	0.40	0.10
28				

1	11/13/2015	Began preparation of the opposition Defendants Motion to Extend Non-Dispositive Motion Deadlines. Conferred with MS re same	0.50	0.10
2				
3	11/12/2015	Communications with MS re minute order	0.10	0.10
4	11/03/2015	Preparation of the Draft of the joint informal discovery dispute letter to Judge Boone . . . conference with MS re same. Email to Mr. Kharazi with the draft attached for his input	0.40	0.10
5				
6				
7	10/23/2015	Instructions to MS re research and preparation of a response to document requests contained within expert witness notices of deposition. [. . .]	1.20	0.10
8				
9	10/15/2015	Reviewed draft of the Response to notice of expert witness depositions, instructions to MS re revisions and finalized for service	1.30	0.30
10				
11	10/12/2015	Instructions to MS re preparation of the response and objections to notice of deposition of Dr. Levin	1.40	0.40
12				
13	10/11/2015	[. . .] Instructions to IM re arranging for an in person court appearance	0.20	0.10
14				
15	10/06/2015	Reviewed depo notice received from the opposing counsel and Instructions to MS re communications with the consultant re same. Reviewed email from MS	0.40	0.10
16				
17	09/22/2015	Reviewed information available about defense expert witness, instructions to paralegal re preparation of notice of deposition - reviewed/revised and finalized. Additional analysis re timing and method of service - communications with MS re same	0.90	0.10
18				
19				
20				
21	09/17/2015	Reviewed memo and conference with MS re her communications with Dr. Bluhm (expert) regarding review/analysis of the defense expert's disclosures	0.50	0.10
22				
23	08/18/2015	Reviewed the court order. Conference with MS re same	0.40	0.30
24	08/14/2015	Reviewed declaration by Kharazi and communications with MS re same	0.50	0.10
25				
26	08/14/2015	Reviewed declaration filed by Kharazi and communications with MS re same [duplicate entry]	0.50	0.50
27				
28				

1	08/14/2015	Preparation of the motion for OSC and extension of discovery deadline; [. .] Instructions to MS re same	2.20	2.00
2		[. . .] Instructions to IM re filing and communications with the court		
3				
4	08/12/2015	Preparation of the Plaintiff's Confidential Settlement Conference Statement. Conference with MS re same	1.40	1.20
5				
6	08/07/2015	Preparation of discovery responses and instructions to MS re communications with opposing counsel	1.40	0.10
7				
8	08/06/2015	[. . .] Reviewed correspondence from [Kharazi]'s office and instructions to MS re response. [. . .]	1.40	0.10
9				
10	08/06/2015	Instructions to MS re correspondence with Kharazi and reviewed reply by Kharazi re deposition of Mr. Missaghian	0.50	0.20
11				
12	08/02/2015	Reviewed information and documents received from the client and instructions to MS re production	0.40	0.30
13				
14	08/01/2015	Reviewed memo received from WL re communications with [Kharazi]. Instructions re how to proceed	0.40	0.40
15				
16	07/31/2015	Reviewed correspondence from Mr. Vasquez and further instructions to paralegal	0.40	0.30
17				
18	07/31/2015	Conference with Mr. Vasquez [. . .] Notes to the file and communications with paralegal re same	0.50	0.20
19				
20	07/29/2015	Preparation of opposition to ex parte application re Shiralian's deposition. Communications with MS re same	1.60	0.60
21				
22	07/28/2015	Reviewed ex parte motion by Chase. Conference with MS. Communications with Kharazi re clarification re PMK	1.30	0.20
23				
24	07/27/2015	Instructions to MS re drafting a response to Kharazi [. . .] reviewed deadlines and conference with MS re same. Reviewed/finalized corresponded to Kharazi	0.80	0.20
25				
26	07/24/2015	Conference with MS re subpoena [. . .]	0.70	0.10
27				
28	07/23/2015	Further instructions re obtaining Fernando's name	0.30	0.30
	07/22/2015	Reviewed email from Kharazi [. . .] Conference with MS re same and instructions re preparation of a response [. . .]	0.70	0.30

1	07/21/2015	Instructions to MS re preparation of a response to Kharazi re subpoena [. . .]	0.40	0.10
2				
3	07/20/2015	Reviewed email from Kharazi and Escobedo. Conference with MS regarding same	0.50	0.10
4				
5	07/20/2015	Conference with Kharazi and notes to the file. Instructions to MS after the conference	0.50	0.20
6				
7	07/17/2015	Conferred with MS re Court's ruling and compliance with the order	0.50	0.50
8				
9	07/16/2015	Instructions to WL re preparation of the Amended Notice of Taking Deposition of Soheila Darcy and Bob Shiralian. Reviewed and finalized for service	0.30	0.30
10				
11	07/16/2015	Reviewed amended initial disclosures. Instructions to WL re additional discovery needed	0.60	0.10
12				
13	07/07/2015	Reviewed [correspondence and other documents]. Instructions to MS re preparation for the same	1.30	0.10
14				
15	06/10/2015	Instructions to MS re preparation of communication to Kharazi re discovery dispute	0.40	0.40
16				
17	06/08/2015	Instructions to paralegal re communications with opposing counsel re meet and confer	0.20	0.10
18				
19	06/06/2015	Memo to the file re unsuccessful meet and confer with Kharazi during the depositions. Instructions to IM re rescheduling the meet and confer	0.40	0.40
20				
21	06/01/2015	Instructions to MS re preparation of yet another meet and confer letter to Kharazi re deficient supplemental discovery responses. Reviewed and finalized	0.30	0.20
22				
23	06/01/2015	Instructions to MS re preparation of supplemental initial disclosures, reviewed and approved for service	0.30	0.20
24				
25	05/28/2015	Reviewed supplemental responses to rogs and docs received from Kharazi and instructions to paralegal re preparation of another meet and confer letter	0.50	0.10
26				
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1	05/27/2015	Reviewed subpoena re medical records. Instructions to MS re drafting a meet and confer letter re same to Kharazi. Reviewed/finalized	0.60	0.50
2				
3	05/27/2015	Reviewed communications from Kharazi in response to memo received from MS re no letter brief received by the office. Instructions to MS re communications with the court re same	0.40	0.30
4				
5				
6	05/21/2015	Confer with MS re communications with the court re procedures related to the information discovery motion and submission of a letter. Preparation for the informal discovery motion in front of Judge Oberto. Instructions to MS re same	0.70	0.50
7				
8				
9				
10	05/18/2015	Reviewed correspondence from [Kharazi] re meet and confer. Instructions re response	0.30	0.10
11	05/18/2015	Reviewed email from Kharazi of 5/15, instructions to paralegal re response	0.50	0.10
12				
13	05/08/2015	Reviewed correspondence from Kharazi, instructions to WL re response	0.50	0.10
14				
15	05/04/2015	Reviewed correspondence from Kharazi, instructions to MS re response to Kharazi, reviewed yet another correspondence from Kharazi, draft/revise letter in response to the same	1.60	0.10
16				
17	04/29/2015	Instructions to IM re correspondence with [Kharazi]	0.30	0.30
18	04/27/2015	Reviewed defendant's opposition to motion to strike and instructions to MS re preparation of a brief reply	0.50	0.40
19				
20	04/27/2015	Reviewed draft of the response prepared by MS [. . .]	1.40	1.20
21	04/27/2015	Instructions to MS re preparation of Plaintiff's Objections [. . .] Reviewed draft and finalized for service	0.60	0.30
22				
23	04/27/2015	Instructions to MS re preparation of Plaintiff's response to Defendant's Second Set of Requests for Production of Documents	0.60	0.40
24				
25				
26	04/23/2015	Reviewed and revised draft prepared by MS. Finalized the letter to Kharazi re discovery deficiencies	0.50	0.20
27				
28				

1	04/18/2015	Reviewed written discovery obtained from the defendants. Instructions to paralegal re drafting a meet and confer letter re deficiencies	1.20	0.20
2				
3	04/16/2015	Reviewed/analyzed Defendant's Second Set of Requests for Production of Documents. Instructions to paralegal re preparation of a response	0.50	0.40
4				
5	04/12/2015	Instructions to MS re preparation of the motion for strike demand for jury trial and research needed	1.30	1.10
6				
7	04/08/2015	Conference with the client re deposition and instructions to MS re further preparation	0.50	0.10
8				
9	04/07/2015	[. . .] Instructions to MS re response to Kharazi's multiple emails	0.50	0.10
10				
11	04/07/2015	Further instructions to MS re preparation of the motion for sanctions and communications with opposing counsel re same	2.30	2.00
12				
13	03/15/2015	Further review drafts of our discovery requests and instructions to MS re finalizing same	1.30	0.10
14				
15	03/13/2015	Instructions to WL re preparation of the discovery requests. Reviewed/revised drafts	0.60	0.10
16				
17	03/12/2015	Instructions to WL re preparation of the motion to amend, reviewed/revised, instructions re filing. Reviewed correspondence to make sure no communications from Kharazi received	2.10	2.00
18				
19	03/06/2015	Instructions to WL re preparation of motion to amend and communications with opposing counsel re same	0.40	0.10
20				
21	02/25/2015	Reviewed all information received from the consultant; instructions to WL re drafting a first amended complaint based on the additional information and stipulation re same. Reviewed/revised both drafts and approved for further processing	1.60	0.60
22				
23				
24	02/18/2015	Reviewed/analyzed Defendants Rule 26 disclosure to determine which discovery is needed. Instructions re same	0.40	0.10
25				
26	02/12/2015	Reviewed documents assembled by WL. Instructions to MS re communications with [Kharazi] re discovery and providing additional discovery	0.60	0.50
27				
28				

1	02/11/2015	Reviewed file re no initial disclosures received from Chase and instructions to IM re follow up correspondence with the opposing counsel	0.30	0.10
2				
3	01/28/2015	Reviewed research by MS re fraud, communications with MS re preparation of opposition to Motion Leave to File Amended Answer	1.10	0.60
4				
5	01/26/2015	Instructions to IM re preparation for court appearance	0.10	0.10
6				
7	01/22/2015	Multiple communications with WL re trying to schedule a meet and confer with [Kharazi], [multiple communications with Kharazi re JSR]	1.20	0.20
8				
9	01/16/2015	Reviewed multiple communications from Kharazi and instructions to paralegal re further revisions to the JSR	0.50	0.10
10				
11	01/13/2015	Reviewed Defendant's First Set of Requests for Production of Documents, reviewed the file to determine responsive documents. Instructions to MS re preparation of Plaintiff's Response	2.00	1.20
12				
13	01/08/2015	Instructions to WL re revisions of the JSR and communications with opposing counsel re same. Reviewed/revised and finalized	0.40	0.30
14				
15				
16	12/14/2014	Reviewed correspondence from the opposing counsel re no response to my request for meet and confer re inspection, analysis re motion to compel the site inspection and instructions to paralegal re further communications and preparation of a motion to compel the site inspection	0.50	0.10
17				
18				
19				
20	12/11/2014	In-office conference with MS re preparation of the letter to Kharazi. Draft prepared by MS reviewed/revised and finalized. Instructions to paralegal re further preparation for the site inspection	1.00	0.50
21				
22	12/01/2014	Instructions to paralegal re rescheduling the site inspection at [Kharazi]'s request	0.10	0.10
23				
24	11/26/2014	Reviewed multiple communications from [Kharazi]'s office re continuance of the site inspection and memo from WL re same. Reviewed calendar. Instructions to WL and IM re further communications with the opposing counsel re same	0.50	0.20
25				
26				
27	11/05/2014	Instructions to IM re communications with the consultant	0.10	0.10
28				

1	09/24/2014	Reviewed memo from IM re communications with [Kharazi]	0.10	0.10
2				
3	09/23/2014	File review and instructions to IM re preparation for the Rule 26 meet and confer and communications with [Kharazi] re same	0.30	0.10
4				
5	07/25/2014	Reviewed initial draft of the complaint prepared by WL; reviewed communications from the client, reviewed research by WL to ensure accuracy of the named defendants. Reviewed prefilings photos and communications. Instructions to WL re revisions and preparation of all pleadings for filing	1.50	1.00
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8				

9 When considering the time entries in total, the amount of time spent duplicating the work of
10 paralegals is unreasonable. *See Chalmers*, 796 F.2d at 1210 (duplicative, overstaffed, or otherwise
11 unnecessary hours may be reduced from attorney's fees award). The Court will therefore reduce
12 Ms. Moore's time by an additional 31.9 hours. Together, Plaintiff will be compensated for 203.90
13 hours of attorney time.

14 **b. Plaintiff's Paralegals Ms. Sacks and Ms. Law**

15 Plaintiff seeks compensation for a total of 243.70 hours of paralegal time spent by Ms.
16 Sacks and Ms. Law. (*See Docs. 110-1, p. 18; 110-4; 110-5; 110-6; 110-7.*) Regarding the number
17 of hours expended by the paralegals, the amount Plaintiff claims for certain tasks is reasonable,
18 but some billed time is unreasonable, duplicative, or inadequately documented and should be
19 reduced.

20 Ms. Sacks spent 8.9 hours on the ex parte application to order Defendant to turn over
21 subpoenaed medical records which the Court found "frivolous" within the meaning of Fed. R. Civ.
22 P. 11 (*see Docs. 47; 103*), 19.6 hours on the motion for sanctions against Defense counsel which
23 was denied (*see Doc. 99* (denying Plaintiff's motion to "police [counsel's] *out-of-court* conduct"
24 and admonishing counsel to conduct themselves with candor and professionalism)), 6.7 hours on
25 clerical and administrative tasks, and .7 taking notes in a telephone call already billed at Plaintiff's
26 counsel's rate; and Ms. Law spent 2.5 hours on clerical and administrative tasks. (*Docs. 110-5;*
27 *110-7.*) *See also Missouri*, 491 U.S. at 288 n.10 (purely clerical tasks will not be compensated);
28 *Chalmers*, 796 F.2d at 1210 (duplicative, overstaffed, or otherwise unnecessary hours may be

1 reduced from attorney’s fees award). The Court will therefore reduce Ms. Sacks’ time by 35.9
 2 hours, for a remaining total of 146 hours, and Ms. Law’s hours by 2.5 hours, for a remaining total
 3 of 64.4 hours. Together, Plaintiff will be compensated for a total of 215.45 hours of paralegal
 4 time.

5 Accordingly the lodestar in this case is \$66,755, calculated as follows:

6	Moore:	204.60	x	\$250	=	\$ 50,975
7	Sacks:	146	x	\$75	=	\$ 10,950
8	Law:	64.4	x	\$75	=	<u>\$ 4,830</u>
9						\$ 66,755

10 **C. Costs**

11 Plaintiff also seeks costs in the amount of \$7,248.34 for postage and shipping, legal
 12 research, expert witness fees, and pre-filing investigation expenses. (See Docs. 110-3, Exh. B
 13 (postage costs totaling \$29.21), Exh. C (Lexis/Nexis charges totaling \$279.11), Exh. D (FedEx
 14 costs totaling \$412.73), Exh. E (Plaintiff’s access expert Mike Bluhm’s invoice for pre-filing
 15 investigation totaling \$1,020.00), Exh. F (Plaintiff’s access expert Mike Bluhm’s invoice for
 16 deposition preparation totaling \$108.29), Exh. G (Plaintiff’s medical expert Mark Levin, M.D.’s
 17 invoices totaling \$3,396.00 for time spent reviewing records in this matter); *see also* Moore Decl.
 18 (representing that Dr. Levin was paid an additional \$662.50 for time spent preparing for his
 19 deposition and that Plaintiff’s access expert David Horn was paid \$528.00 for time spent at his
 20 deposition in this matter, even though counsel has no receipts for these payments).)

21 Defendant objects to Plaintiff’s requests for expert fees, postage, courier, and legal
 22 research charges. (Doc. 114, p. 15.) Costs for certain expenses such as electronic legal research,
 23 postage, courier services, facsimile charges, and long distance phone charges, are litigation
 24 expenses which may be recovered as part of an award of attorney's fees if “it is the prevailing
 25 practice in a given community for lawyers to bill those costs separately from their hourly rates.”
 26 *Trustees of the Constr. Indus.*, 460 F.3d at 1256, 1258-59. In the Ninth Circuit, expert witness
 27 fees are recoverable, *Lovell v. Chandler*, 303 F.3d 1039, 1058 (9th Cir. 2002), and “litigation
 28 expenses” such as messenger services and postage are recoverable, *Robins v. Scholastic Book*

1 *Fairs*, 928 F. Supp. 1027, 1037 (D. Or. 1996); *see also Thornberry v. Delta Air Lines*, 676 F.2d
2 1240, 1244 (9th Cir. 1982).

3 Generally, “computerized research costs can, in appropriate circumstances, be recovered in
4 addition to the hourly rates of attorneys,” but only “if separate billing for such expenses is ‘the
5 prevailing practice in the local community.’” *Trustees of Constr. Indus.*, 460 F.3d at 1258-59.
6 Courts are split on whether some portion of electronic research expenses should be considered
7 “overhead” costs that are not charged to fee-paying clients. *See Cairns v. Franklin Mint Co.*, 115
8 F.Supp.2d 1185, 1189 (C.D. Cal. 2000) (describing split and subtracting 25% from research costs
9 for overhead), *aff’d* 292 F.3d 1139 (9th Cir. 2002). To be fully reimbursed for computerized
10 research costs, plaintiffs must demonstrate that these costs would ordinarily be treated as
11 reimbursable in a private attorney-client relationship, *Pierce v. Cty. of Orange*, 905 F. Supp. 2d
12 1017, 1046-47 (C.D. Cal. 2012), or be considered the “prevailing practice in the local
13 community,” *Trustees of Const. Indus.* 460 F.3d at 1259. *See also Koon Chun Hing Kee Soy &*
14 *Sauce Factory, Ltd. v. Eastimpex*, Case No. C 04-4146-MMC, 2007 WL 2317583, at *1 (N.D.
15 Cal. Aug. 10, 2007) (ordering reimbursement for full cost of electronic research because plaintiff
16 demonstrated “that each cost it seeks herein was billed to the client”). Here, Plaintiff has not
17 provided any evidence that all electronic research costs are ordinarily billed to the client as the
18 prevailing practice in the community without any deduction for overhead. (*See Moore Decl.*;
19 *Moore Supp. Decl.*) Therefore, a 25% reduction in research fees is appropriate. Since Plaintiff
20 seeks \$279.11 in legal research expenses, \$69.78 will be deducted from the legal research
21 expenses. *Pierce*, 905 F. Supp. 2d at 1046-47. Plaintiff will therefore be compensated \$209.33 in
22 legal research expenses, for a total costs award of \$7,178.56.

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III. CONCLUSION AND ORDER

Accordingly, IT IS ORDERED that:

1. Plaintiff's motion for attorney's fees and costs (Doc. 110) is GRANTED in part;
2. Defendant is directed to pay \$66,755.00 in attorney and paralegal fees to Plaintiff;
and;
3. Defendant is directed to pay \$7,178.56 in costs to Plaintiff.

IT IS SO ORDERED.

Dated: July 7, 2016

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE