

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Oscar Ramos v. Lesa Marie Gonzalez, et al.

Ramos · No. 2:24-cv-01261-CSK · Decided November 10, 2025

SUMMARY

The United States District Court for the Eastern District of California grants Plaintiff Oscar Ramos's request for expenses under Federal Rule of Civil Procedure 37(a)(5)(A) following Defendants' failure to respond to discovery and to oppose the motion to compel. The court awards \$700 in attorney's fees, calculated as two hours at \$350 per hour, payable within 21 days. The court also orders Defendants to file notice upon payment and directs Plaintiff to file a status report regarding further proceedings and potential sanctions.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 OSCAR RAMOS, Case No. 2:24-cv-01261-CSK 12 Plaintiff, 13 v. ORDER
GRANTING RULE 37 EXPENSES 14 LESA MARIE GONZALEZ, et al., (ECF Nos. 25, 27, 28)
15 Defendants. 16 17 On September 26, 2025, the Court granted Plaintiff Oscar Ramos's motion
to 18 compel Defendants Lesa Marie Gonzalez, individually and dba Dave's Giant Hamburger, 19
and Ellen Carol Gansberg regarding Plaintiff's interrogatories, requests for admissions 20
("RFAs"), and requests for documents ("RFPs").1 9/26/2025 Order (ECF No. 27); Pl.

Mot. 21 (ECF No. 25). Because Plaintiff had not provided the Court with sufficient information to
22 determine the amount of expenses if the Court were to make such an award pursuant to 23
Federal Rule of Civil Procedure 37(a)(5)(A), the Court ordered Plaintiff to submit his 24
reasonable expenses, including attorney's fees, and provided Defendants with the 25 opportunity
to respond.

9/26/2025 Order at 7. Plaintiff submitted his reasonable 26 27 1 This case proceeds before the
undersigned pursuant to 28 U.S.C. § 636(c) for all purposes, including the entry of judgment,
pursuant to the consent of all parties. (ECF 28 No. 16.) 1 expenses, and Defendants did not
respond. Pl. Resp. (ECF No. 28); see Docket. 2 I. DISCUSSION2 3 A. Rule 37 Expenses 4 Under
Rule 37, if a court grants a motion to compel or discovery is provided after 5 the filing of the
motion to compel, the court also must award the moving party its 6 reasonable expenses in
making the motion, including attorneys' fees unless: the moving 7 party did not make a good faith
attempt to obtain the discovery before making the 8 motion; the opposing party's nondisclosure,

response, or objection was substantially 9 justified; or other circumstances make an award of expenses unjust.

Fed. R. Civ. P. 10 37(a)(5)(A)(i)-(iii). 11 In the Court's September 26, 2025 order, Defendants were expressly warned that 12 "[a] failure to timely respond by Defendant will be construed as a concession that there 13 was no justification for Defendants' failure to respond to Plaintiff's discovery requests 14 and as a non-opposition to the award of reasonable expenses under Rule 37(a)(5)(A)." 15 9/26/2025 Order at 7.

As of November 6, 2025, Defendants have not responded though 16 they were provided with the opportunity to respond. See 9/26/2025 Order; Docket. In 17 addition, Defendants never responded to Plaintiff's motion to compel. See Docket. There 18 is no evidence that Plaintiff did not make a good faith attempt to obtain the discovery 19 before filing its motion to compel, and no other circumstances make an award of 20 expenses unjust.

See Fed. R. Civ. P. 37(a)(5)(A)(i), (iii). As Defendants were warned, 21 Defendants' failure to respond is interpreted as Defendants' concession that there was 22 no justification for their failure to respond to Plaintiff's discovery requests and as a non- 23 opposition to awarding Plaintiff his reasonable expenses requested. See Fed. R. Civ. P. 24 37(a)(5)(A)(ii).

Therefore, because the Court finds that none of the exceptions are 25 established under Rule 37(a)(5)(A), the Court must award Plaintiff his reasonable 26 expenses in making the motion to compel, including attorneys' fees. See Fed. R. Civ. P. 27 2 Additional background on Plaintiff's motion to compel is provided in the Court's prior 28 order. See 9/26/2025 Order.

1 37(a)(5)(A). 2 The Ninth Circuit affords district courts broad discretion in determining the 3 reasonableness of fees. *Gates v. Deukmejian*, 987 F.2d 1392, 1398 (9th Cir. 1992). 4 While the amount of a fee award is discretionary, the district court must "provide a 5 concise but clear explanation of its reasons for the fee award." *Carter v. Caleb Brett LLC*, 6 757 F.3d 866, 868 (9th Cir.

2014). The Ninth Circuit utilizes the "lodestar" method for 7 assessing reasonable attorney's fees. *Gonzalez v. City of Maywood*, 729 F.3d 1196, 8 1202 (9th Cir. 2013). Under the "lodestar" method, the number of hours reasonably 9 expended is multiplied by a reasonable hourly rate. *Id.* Reasonable hourly rates are 10 determined by the "prevailing market rates in the relevant community." *Sorenson v. Mink*, 11 239 F.3d 1140, 1145 (9th Cir.

2001). "[T]he established standard when determining a 12 reasonable hourly rate is the 'rate prevailing in the community for similar work performed 13 by attorneys of comparable skill, experience, and reputation.'" *Camacho v. Bridgeport 14 Fin., Inc.*, 523 F.3d 973, 979 (9th Cir. 2008) (quoting *Barjon v. Dalton*, 132 F.3d 496, 502 15 (9th Cir. 1997)). Generally, "the relevant

community is the forum in which the district 16 court sits.” Camacho, 523 F.3d at 979 (quoting Barjon, 132 F.3d at 500).

Here, the 17 relevant community is Sacramento, California, which is where this district court is 18 located. 19 Plaintiff seeks attorney’s fees in the amount of \$700 for his counsel, Richard Mac 20 Bride, in connection with his motion to compel. Mac Bride Decl. (ECF No. 28). Plaintiff’s 21 attorney fees are based on a \$350 hourly rate for two hours of work.

The Court finds that 22 two hours is a reasonable amount of time spent by counsel. The Court further notes that 23 Plaintiff is not seeking fees or expenses after the filing of his motion to compel. The 24 Court next examines the hourly rates requested. Mr. Mac Bride has been practicing law 25 for 27 years, since 1998, and runs his own law office. Mac Bride Decl. ¶ 3.

Plaintiff also 26 submits case law from the Eastern District of California to support counsel’s requested 27 rate, citing cases where counsel has been awarded his \$350 hourly rate in this district. 28 See id. ¶ 4. The Court finds that the requested hourly rate of \$350 for an attorney with 27 1 | years of experience is reasonable, and lower than the prevailing market rate in 2 || Sacramento for attorneys of comparable skill, experience, and reputation.

3 Pursuant to Rule 37(a)(5)(A), the Court therefore orders Defendants to pay 4 | Plaintiff’s reasonable expenses in the amount of \$700, which represents two hours for 5 || counsel at a \$350 hourly rate. 6 B. Defendants’ Compliance with the Court’s September 26, 2025 Order 7 Defendants were also ordered to file a written status report regarding their 8 || compliance with the September 26, 2025 order within 14 days of that order’s issuance.

9 | 9/26/2025 Order at 8. Defendants did not file the required status report. See Docket. In 10 || addition, on October 27, 2025, Plaintiff filed a status report indicating that Defendants 11 | have not served any discovery responses, in further violation of the Court’s September 12 || 26, 2025 order. 10/27/2025 Pl. Status Rpt (ECF No. 29). 13 It appears that Defendants are not participating in the litigation.

See Docket; 14 | 10/27/2025 Pl. Status Rpt. By December 15, 2025, Plaintiff is ordered to file a status 15 || report as to how it intends to proceed in this action, including whether it will move for 16 | sanctions for Defendants’ alleged failures to comply with the Court’s discovery order. 17 | UL CONCLUSION 18 In conclusion, IT |S HEREBY ORDERED THAT: 19 1.

Plaintiff is awarded his reasonable expenses in the amount of \$700, which 20 must be paid by Defendants to Plaintiff within twenty-one (21) days of the date 21 of this order; 22 2. Defendants shall simultaneously file a notice once payment is made; and 23 3. By December 15, 2025, Plaintiff must file a status report as to how it intends to 24 proceed in this action, including whether it will move for sanctions for 25 Defendants’ alleged failures to comply with the Court’s discovery order.

26 27 Dated: November 10, 2025 CO iy S \U 28 CHI SOO KIM 4 UNITED STATES
MAGISTRATE JUDGE

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