

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Ines Ruiz Rios, et al. v. Lux Interior and Renovation LLC, et al.

No. CV-23-01686-PHX-DJH (D. Ariz. Mar. 23, 2026) · No. No. CV-23-01686-PHX-DJH · Decided March 23, 2026

SUMMARY

The United States District Court for the District of Arizona grants in part and denies in part Plaintiffs’ motion for attorney’s fees and costs following default judgment in an action under the Fair Labor Standards Act and Arizona wage statutes. The Court awards \$11,392.00 in attorney’s fees for 25.6 compensable hours at \$445 per hour and \$986.20 in out-of-pocket costs. It denies the request for prospective collection costs as speculative and not yet ripe.

OPINION

1 WO 2 3 4 5 6 IN THE UNITED STATES DISTRICT COURT 7 FOR THE DISTRICT OF
ARIZONA 8 9 Ines Ruiz Rios, et al., No. CV-23-01686-PHX-DJH 10 Plaintiffs, ORDER 11 v. 12
Lux Interior and Renovation LLC, et al., 13 Defendants. 14 15 Before the Court is Ines Ruiz Rios,
Alba Garcia Herrera, Reynaldo Hidalgo Diaz, 16 Lazaro Yunsier Lemus Ceden, Omar Mejia,
Walter Rodirguez, Gerardo Meza, Alcides 17 Rodriguez Rugama, and Amara Abigail Terrazas
Raya (collectively “Plaintiffs”) Motion 18 for Award of Attorney Fees and Costs (“Motion”) (Doc.
25). Lux Interior and 19 Renovation LLC, Katsileidys Martinez, John Doe Martinez, Julia
Martinez, and John 20 Doe Martinez II (“Defendants”) have not filed a response. For the reasons
set forth 21 below, the Court will grant the Motion. 22 I. Background 23 In the case at hand,
Plaintiffs alleged that Lux Interior and Renovation and 24 individual Defendants failed to pay
them under the Fair Labor Standards Act (“FLSA”), 25 the Arizona Minimum Wage Act
(“AMWA”), and the Arizona Wage Act (“AWA”).
26 (Doc. 1). When Defendants failed to respond to the Complaint, the Clerk of Court 27 entered
default judgment against all Defendants on November 7, 2023. (Doc. 15). 28 Thereafter, Plaintiffs
filed a Motion for Entry of Default Judgment with the Court that the 1 Court granted. (Docs. 22–
24).
The Court also granted Plaintiffs \$2,601.00 in damages 2 against Defendant Lux Interior and
Renovation LLC and \$103,612.40 against all 3 Defendants. (Doc. 23 at 22). Now, Plaintiffs seek
their reasonable attorneys’ fees and 4 costs. (Doc. 25). Since Defendants have not responded, the
Court can deem their failure 5 to respond as consent to granting Plaintiff’s Motion.

Still, the Court will independently review the Motion under Federal Rule of Civil Procedure 55(b)(2) and for compliance with Local Rule 54.2. II. Analysis Under Local Rule 54.1, a party seeking attorneys' fees must show both that the party is eligible for and entitled to an award and that the request is reasonable. LR Civ 11 54.2(c). A. Eligibility and Entitlement Whether a party is eligible for an award of attorney fees turns on which applicable statutory, contractual, or legal authority the party seeks an award under.

See LRCiv 15 54.2(c)(1)–(2). Here, Plaintiffs are eligible for and entitled to an award under the FLSA and the AMWA. The FLSA states: “[t]he Court in such action shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorneys’ fee to be paid by the defendant, and cost of the action.” 29 U.S.C. § 216(b). And the AMWA says: “[a] prevailing plaintiff shall be entitled to reasonable attorney's fees and costs of suit.” 20 A.R.S. § 23-364(G).

To be a prevailing party, Plaintiffs only need to receive at least some relief on the merits of their claim. *Hewitt v. Helms*, 482 U.S. 755, 760 (1987). By having default judgment entered in their favor, Plaintiffs are the prevailing party and are eligible for and entitled to their reasonable attorneys fees. B. Reasonableness Under the reasonableness inquiry, the Court relies on the lodestar method.

Six Mexican Workers v. Ariz. Citrus Growers, 904 F.2d 1301, 1311 (9th Cir. 1990). Two steps make up this approach. *Welch v. Metro. Life Ins. Co.*, 480 F.3d 942, 945–46 (9th Cir. 2007). “First, the court establishes a lodestar by multiplying the number of hours reasonably expended on the litigation by a reasonable hourly rate,” excluding from the requested amount “any hours that are excessive, redundant, or otherwise unnecessary.” 3 *Id.* (internal citation omitted).

Then, in rare cases, “the district court may adjust the lodestar upward or downward using a multiplier based on facts not subsumed in the initial lodestar calculation.” *Id.* (internal citation omitted). Also, the reasonable hourly rate is assessed by “the prevailing market rate in the relevant community.” *Id.* To obtain an award of attorneys’ fees and costs, the prevailing party must file a motion for fees and submit evidence in support of the proposed award.

Machowski v. 333 N. Placentia Prop., 9 LLC, 38 F.4th 837, 841 (9th Cir. 2022). In determining the reasonable hourly rate, the Court is not guided by the hours charged by the prevailing party's attorney but is rather “guided by the rate prevailing in the community for similar work performed by attorneys of comparable skill, experience, and reputation.” *Chalmers v. City of Los Angeles*, 796 F.2d 1205, 1210–11 (9th Cir.

1986), opinion amended on denial of reh'g, 808 F.2d 1373 (9th Cir. 1987) (citing *Blum v. Stenson*, 465 U.S. 886, 896 n.11 (1984)). The number of hours considered in the Lodestar

calculus is not limited to those 16 hours expended up to a favorable judgment. Rather, “[i]n statutory fee cases, federal 17 courts, including our own, have uniformly held that time spent in establishing the 18 entitlement to and amount of the fee is compensable.” In re Nucorp Energy, Inc., 764 19 F.2d 655, 659–60 (9th Cir.

1985). This includes FLSA actions. See Gary v. Carbon Cycle 20 Ariz. LLC, 398 F. Supp. 3d 468, 479 (D. Ariz. 2019) (“Indeed, courts within the Ninth 21 Circuit have awarded attorneys’ fees to prevailing plaintiffs in FLSA actions for the costs 22 incurred in preparing their motions for attorneys’ fees.”). 23 When appropriate, the Court can also judge the reasonableness of the lodestar 24 figure based on the factors listed in Kerr v. Screen Extras Guild, Inc. See Intel Corp. v. 25 Terabyte Int’l, Inc., 6 F.3d 614, 622 (9th Cir.

1993). Stated precisely, the Kerr factors are: 26 (1) the time and labor required, (2) the novelty and difficulty of the questions involved, (3) the skill requisite to perform the 27 legal service properly, (4) the preclusion of other employment by the attorney due to acceptance of the case, (5) the 28 customary fee, (6) whether the fee is fixed or contingent, (7) time limitations imposed by the client or the circumstances, 1 (8) the amount involved and the results obtained, (9) the experience, reputation, and ability of the attorneys, (10) the 2 ‘undesirability’ of the case, (11) the nature and length of the professional relationship with the client, and (12) awards in 3 similar cases.

4 Kerr v. Screen Extras Guild, Inc., 526 F.2d 67, 70 (9th Cir. 1975), abrogated on other 5 grounds by City of Burlington v. Dague, 505 U.S. 557 (1992).1 6 III. Application of the Kerr factors to determine reasonableness 7 Here, Plaintiffs’ counsel was hired on a contingency fee basis. (Doc. 25 at 4, Ex. 8 A, Representation Agreement). His contingency fee, according to his agreement with 9 Plaintiffs is 40% of the total recovery.

(Ex. A, Representation Agreement). Plaintiffs’ 10 counsel is requesting an hourly rate of \$445.00. (Doc. 25 at 4). In total, he states that he 11 worked 29.3 hours. (Id. at 6). At the requested hourly rate, this equals \$13,038.50. (Id.) 12 He also requests an additional \$986.20 for out-of-pocket costs, bringing the running total 13 to \$14,024.70. (Id.)

On top of that, he also seeks costs related to future collection efforts 14 and estimates that he will incur an additional \$30,409.52 in collection costs. (Id.) His 15 running total of requested attorneys’ fees then comes out to \$44,434.23. (Id.) 16 As far as Plaintiffs’ counsel’s hourly rate is concerned, it is presumptively 17 reasonable. See Ubinger v. Urb.

Housekeeping LLC, 2024 WL 3045303, at *3 (D. Ariz. 18 June 18, 2024) (finding that 24.2 hours worked at \$445, for a total of \$10,769.00 was 19 presumptively reasonable). However, the Court must now also assess the Kerr factors as 20 applied to Plaintiffs’ counsel’s request.

The Court will also address the request for out-of- 21 pocket costs and presumptive collection efforts. 22 1. Time and Labor 23 Plaintiffs represent that their counsel spent 29.3 hours on this

case. (Doc. 25 at 7). 24 While the Court takes no issue with the tenth of an hour increment to bill time used by 25 counsel, the Court will excise time entries that are administrative or clerical tasks.

See 26 *Avila v. JBL Cleaning LLC*, 2025 WL 755421, at *2 (D. Ariz. Mar. 10, 2025) (excising 27 28 1 Local Rule 54.2(c) adds an additional factor to the list, namely, “Any other matters deemed appropriate under the circumstances.” LRCiv. 54.2(c)(3)(M). 1 time for activities delineated as clerical or administrative from counsel's total hours 2 worked).

The following entries fall under the umbrella of clerical or administrative and 3 will therefore be subtracted from counsel's total hours eligible for attorney fees: 4 • Finalize, file complaint (0.2 hours) 5 • Review Order re service (0.1 hours) 6 • Compile documents, send to process server (0.3 hours) 7 • Communicate with process server re service efforts (0.1 hours) 8 • Email thread with process server re Defendants' 9 whereabouts (0.1 hours, no date provided) 10 • Email thread with process server re Defendants' 11 whereabouts (0.2 hours, 8/23/23) 12 • Email thread with process server re Defendants' whereabouts (0.2 hours, 8/26/23) 13 • Email thread with process server re Defendants' whereabouts (0.1 hours, 8/29/23) 14 • Email thread with process server re Defendants' whereabouts (0.1 hours, 9/8/23) 15 • Email thread with process server re Defendants' whereabouts (0.3 hours, 9/11/23) 16 • Email thread with process server re Defendants' whereabouts (0.1 hours, 9/19/23) 17 • Finalize, file motion for alternative service (0.1 hours) 18 • Send motion to chambers (0.1 hours) 19 • Send Order to process server (0.1 hours) 20 • Email from process server re service executed (0.2 hours) 21 • Review proofs of service (0.1 hours) 22 • File service executed (0.1 hours) 23 • Review Order setting CM (0.1 hours) 24 • Finalize, file Application for Entry of Default (0.1 hours) 25 • Review Clerk's Entry of Default (0.1 hours) 26 1 • Review Order re no default judgment motion (0.1 hours) 2 • Send Status Report & Request to Chambers (0.1 hours) 3 • Review Order granting request for extension (0.1 hours) 4 • File motion to exceed page limit (0.1 hours) 5 • Lodge Motion for Default Judgment (0.1 hours) 6 • Review Order granting motion to exceed page limit (0.1 hours) 7 • Review filed Motion for default judgment (0.1 hours) 8 • Email Motion to Chambers and to Defendants (0.1 hours) 9 • Finalize, file motion for attorneys fees & costs (0.1 hours) 10 11 (See Doc.

25-4 at 2 – 4, Ex. D, Itemization of Time). The Court will excise these entries 12 from total hours billed as clerical or administrative tasks no eligible for an attorney fees 13 award. With this, the total hours incurred for Plaintiff's counsel's work, minus the 14 clerical and administrative tasks listed above is 25.6 (29.3 minus 3.7). 15 2. Novelty and Difficulty of Questions Involved 16 Because this action resulted in default judgment, there were few—if any—novel 17 or challenging questions involved.

Plaintiff's counsel concedes as much: “The legal 18 issues presented by Plaintiffs were not novel in this jurisdiction.” (Doc. 25 at 7). This 19 factor is therefore neutral and does not result in a

modification of the amount awarded. 20 See *Ubinger*, 2024 WL 3045303, at *3 (“This case involved a straightforward claim that 21 comes reasonably often before this Court.

This factor is neutral.”) (cleaned up). 22 3. Skill Requisite to Perform the Legal Service Properly 23 The Court finds that it takes a moderate amount of skill to litigate FLSA cases. 24 *Verduzco v. Value Dental Ctrs. Mesa W. AZ LLC*, 2022 WL 2718163, at *2 (D. Ariz. July 25 12, 2022). Despite Plaintiffs’ assertion otherwise that this case presented “sophisticated” 26 and “extensive knowledge of the law,” the Court is unpersuaded.

The skill level required 27 to litigate an FLSA case is moderate. 28 1 4. Preclusion of Other Employment 2 The Court finds that Plaintiffs’ counsel was not significantly precluded from other 3 work. Plaintiffs’ counsel also agrees because he stated that he was not “significantly 4 precluded from other work because of this representation.” (Doc. 25 at 8). 5 5.

Customary Fees 6 The Court also finds that Plaintiffs’ counsel’s hourly rate is reasonable. Plaintiffs’ 7 counsel asserts that \$445 an hour is a reasonable fee. (Id. at 5). Recognizing Arizona 8 District Court precedent, the Court agrees. See, e.g., *Romero*, 2025 WL 509259, at *3 9 (“Counsel asserts that his hourly rate of \$445.00 is reasonable[.]

The Court agrees.”) 10 (citing *Romero v. Steel Roots LLC*, 2024 WL 2389353, at *2 (D. Ariz. May 23, 2024) 11 (“The Court finds the prevailing rates for FLSA cases in the District of Arizona and Mr. 12 Bendau’s experience support the requested hourly rate.

The Court finds the \$445 hourly 13 rate reasonable.”)). 14 6. Whether the Fee is Fixed or Contingent 15 Plaintiffs note that the representation agreement between them and their counsel 16 was on a contingency fee basis. (Doc. 25 at 8–9). Additionally, Plaintiffs assert that 17 because this was a contingency fee agreement, the Court may increase counsel’s hourly 18 rate.

(Id. at 9). “The Court acknowledges that agreeing to a contingency fee basis of 19 representation supports the potential for a larger award of attorneys’ fees.” *Lemus v. 20 Blackrock CM Inc.*, No. CV-24-02561-PHX-JAT, 2025 WL 460548, at *3 (D. Ariz. Feb. 21 11, 2025) (citing *Moreno v. City of Sacramento*, 534 F.3d 1106, 1112 (9th Cir. 2008)). 22 7. Time Limitation Imposed 23 Plaintiffs state that “There was no time limitation imposed by either the client or 24 the circumstances.” (Doc.

25 at 10). This factor is therefore accorded minimal weight in 25 the reasonableness inquiry. See *Lemus*, 2025 WL 460548, at *3. 26 8. The Amount Involved and Results Obtained 27 The Court agrees with Plaintiffs that their counsel has achieved excellent results in 28 this case and that the amount in controversy was significant. (Doc. 25 at 10–11). “Where 1 a plaintiff has obtained excellent results, his attorney should recover a fully compensatory 2 fee.” *Hensley v. Eckerhart*, 461 U.S. 424, 435 (1983).

This factor, and the results 3 received, “weighs in favor of awarding the full lodestar amount.” Ubinger, 2024 WL 4 3045303, at *3. 5 9. Experience, Reputation, and Ability of the Attorney 6 The Court agrees with Plaintiffs’ assertion that their counsel is an experienced 7 attorney in FLSA suits. (Doc. 25 at 11). Plaintiffs’ counsel is a regular in FLSA cases 8 before the Court.

9 10. The Undesirability of the Case 10 While the Court may agree with Plaintiffs that this case was undesirable to take 11 on, that does not result in an adjustment to the lodestar amount. (Doc. 25 at 12); see also 12 Ubinger, 2024 WL 3045303, at *3. 13 11. Nature and Length of the Professional Relationship with the Client 14 Plaintiffs note that this is the only instance counsel has represented them.

(See 15 Doc. 25 at 12.) This factor is accordingly neutral. See, e.g., Ubinger, 2024 WL 3045303, 16 at *3 (“Mr. Bendau has never represented Plaintiff before this case. This factor is 17 neutral.”). 18 12. Awards in Similar Cases 19 Plaintiff asserts that the amount of attorneys’ fees requested is reasonable. 20 Considering this District of Arizona’s precedent, the Court agrees.

See Ubinger, 2024 WL 21 3045303, at *4 (granting \$10,769.00 in attorneys’ fees); see also Delgado v. Fast 22 Wireless LLC, 2025 WL 40761, at *4 (D. Ariz. Jan. 7, 2025) (granting \$8,588.50 in 23 attorneys fees’). 24 IV. Conclusion on the Kerr Reasonableness Factors 25 Based on the above analysis, the Court finds that Plaintiffs’ requested attorneys 26 fees are reasonable, with modification.

Therefore, the Court will award attorney fees in 27 the amount of \$11,392.00 (25.6 hours X \$445.00). 28 / / / 1 V. Out-of-Pocket costs 2 Plaintiffs seek \$986.20 in out-of-pocket costs. (Doc. 25 at 13). This includes 3 \$402.00 in a Complaint filing fee, \$336.65 in fees for a service invoice, and \$247.55 in 4 fees for an alternative service invoice. (Doc. 25-4 at 4, Ex. D, Itemization of Out-of- 5 Pocket costs).

The Court will award these amounts to Plaintiff’s counsel. These amounts 6 are taxable costs, and accordingly, Plaintiff must comply with LRCiv. 54.1 to receive 7 them. See LRCiv. 54.1(a), (e)(1). 8 VI. Prospective Collection Costs 9 Plaintiffs also request an additional \$44,434.23 in anticipated costs and fees. (Doc. 10 25 at 14). This includes a \$850.00 retainer, plus 25% of the recovery for collections 11 efforts, which is estimated to amount to \$44,434.23.

(Id. at 16.) In support of this request, 12 Plaintiff files an exhibit containing counsel’s Client Representation Agreement regarding 13 collections matters and a photocopy of a check paying the \$850 retainer. (Doc. 25-9 at 1– 14 3) (Ex. I, Check for Retainer and Collection Efforts Agreement). 15 The Court will not award Plaintiffs’ counsel for prospective collection efforts.

16 While the Court understands that these fees are necessary to recover from Defendants, it 17 does not agree that a \$7,878.14 award is warranted at this time. While Plaintiff attaches a 18 few cases out of the District of Arizona stating that such speculative costs are recoverable 19 (see

generally Doc. 25 at 14) those decisions appear to run afoul of the majority of this 20 District's prior decisions.

See Romero, 2025 WL 509259, at *5 (“The Court finds this 21 request speculative because anticipated collection costs simply are not ripe for award.”); 22 see also Steel Roots LLC, 2024 WL 2389353, at *4 (“The Court recognizes Plaintiff may 23 well need to pay the \$650 retainer and 25% of the recovery for collection efforts, but 24 these fees and costs are not ripe to recover before Plaintiff incurs them.”); Lemus, 2025 25 WL 460548, at *4 (“Plaintiff seeks \$3,201.06 in anticipated collection expenses[.]

26 Plaintiff concedes that the District of Arizona frequently denies such requests[.] In fact, 27 this Court has specifically denied such requests.”); Ubinger, 2024 WL 3045303, at *4 28 (“But costs that Plaintiff has not yet incurred, and may never incur, still qualify as 1 || ‘speculative.’ ”). 2 Accordingly, 3 IT IS ORDERED that Plaintiffs’ Motion for Attorneys’ Fees (Doc.

25) is 4|| granted in part and denied in part. Plaintiff's counsel will be the awarded attorneys 5|| fees in the amount of \$11,392.00 (for 25.6 hours) and \$986.20 in out-of-pocket costs. 6 Dated this 23rd day of March, 2026. 7? norable'Diang4. Hurdetewa 10 United States District Judge 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 -10-