

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Alonso Alexander Guardado Lopez v. Air Pro Heating & Cooling LLC, et al.

Lopez · No. CV-25-02009-PHX-SMM (JZB) · Decided March 26, 2026

SUMMARY

This Report and Recommendation addresses Plaintiff Alonso Alexander Guardado Lopez’s renewed motion for attorneys’ fees and costs following entry of default judgment in an action involving the Fair Labor Standards Act and Arizona minimum wage law. The magistrate judge recommends awarding \$5,651.50 in attorneys’ fees and \$577.80 in out-of-pocket costs, with modifications based on the reasonableness of billed time and the hourly rate.

CASE DETAILS

COURT	United States District Court for the District of Arizona
WRITING FOR THE COURT	United States Magistrate Judge
JURISDICTION	United States District Court for the District of Arizona
DECIDED	March 26, 2026
DOCKET	CV-25-02009-PHX-SMM (JZB)
DISPOSITION	other
PROCEDURAL POSTURE	Report and recommendation on plaintiff's renewed motion for attorneys' fees and costs following entry of default judgment in an FLSA and Arizona minimum-wage action.
STANDARD OF REVIEW	Reasonableness of attorneys' fees under the lodestar method, including review of hours reasonably expended, reasonable hourly rate, and possible adjustment under the Kerr factors.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

attorney fees costs default judgment flsa civil procedure

PRACTICE AREAS

attorneys' fees costs employment law civil procedure

QUESTIONS PRESENTED

1. Whether plaintiff was entitled to recover attorneys' fees and costs under the FLSA and Arizona minimum-wage law after obtaining default judgment.
2. What amount of attorneys' fees was reasonable under the lodestar method and the Kerr factors.
3. Whether plaintiff was entitled to recover the requested \$577.80 in out-of-pocket costs under the applicable rules.

HOLDINGS

1. A plaintiff who obtained default judgment is a prevailing party and is entitled to seek reasonable attorneys' fees and costs under the FLSA and Arizona minimum-wage law.
2. The reasonable attorneys' fee award should be reduced to \$5,651.50 based on 12.7 compensable hours at a reasonable hourly rate of \$445.
3. Plaintiff should receive \$577.80 in out-of-pocket costs.

KEY QUOTATIONS

“Parties prevailing on default judgment are still prevailing parties for the purposes of awarding attorneys’ fees.” (at 2)

“Attorneys’ fees should not be given for the performance of administrative tasks which could and should be performed by secretarial or paralegal staff.” (at 7)

“time spent in establishing the entitlement to and amount of the fee is compensable” (at 8)

“Where a plaintiff has obtained excellent results, his attorney should recover a fully compensatory fee.” (at 10)

FACTUAL BACKGROUND

Plaintiff brought claims under the Fair Labor Standards Act and Arizona minimum-wage law after defendants failed to appear or defend. The Clerk entered default against all defendants, and the district court subsequently entered default judgment. Plaintiff sought \$6,497.00 in attorneys' fees and \$577.80 in costs through a renewed motion filed after the district court required further proceedings concerning the fee request.

PROCEDURAL HISTORY

Plaintiff filed the action on June 10, 2025, served defendants, and obtained entry of default after defendants failed to appear. The district court entered default judgment on November 13, 2025. After an earlier fee motion and report and recommendation, the district court rejected the prior recommendation and directed plaintiff to file a renewed motion. The magistrate judge recommends granting the renewed motion with modifications, awarding \$5,651.50 in attorneys' fees and \$577.80 in costs.

DISPOSITION

other

CASES CITED

- G&G Closed Cir. Events LLC v. Carbajal, No. CV-20-00838-PHX-SPL, 2020 WL 6699485, at *1 (D. Ariz. Nov. 13, 2020)
- Puente Arizona v. Penzone, No. CV-14-01356-PHX-DGC, 2017 WL 4805116, at *1 (D. Ariz. Oct. 25, 2017)
- Roberts v. City of Honolulu, 938 F.3d 1020, 1023 (9th Cir. 2019)
- Kelly v. Wengler, 822 F.3d 1085, 1099 (9th Cir. 2016)
- Machowski v. 333 N. Placentia Prop., LLC, 38 F.4th 837, 841 (9th Cir. 2022)
- 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)
- Blum v. Stenson, 465 U.S. 886, 896 n.11 (1984)
- In re Nucorp Energy, Inc., 764 F.2d 655, 659-60 (9th Cir. 1985)
- Gary v. Carbon Cycle Ariz. LLC, 398 F. Supp. 3d 468, 479, 487 (D. Ariz. 2019)
- Intel Corp. v. Terabyte Int'l, Inc., 6 F.3d 614, 622 (9th Cir. 1993)
- Kerr v. Screen Extras Guild, Inc., 526 F.2d 67, 70 (9th Cir. 1975)
- City of Burlington v. Dague, 505 U.S. 557 (1992)
- Ubinger v. Urb. Housekeeping LLC, No. CV-23-01802-PHX-ROS, 2024 WL 3045303, at *3 (D. Ariz. June 18, 2024)
- Delgado v. Fast Wireless LLC, No. CV-24-00203-PHX-JAT, 2025 U.S. Dist. LEXIS 2433, at *4-5 (D. Ariz. Jan. 7, 2025)
- Avila v. JBL Cleaning LLC, No. CV-23-00398-PHX-DJH, 2025 WL 755421, at *2 (D. Ariz. Mar. 10, 2025)
- Verduzco v. Value Dental Ctrs. Mesa W. AZ LLC, No. CV-20-02380-PHX-DJH, 2022 WL 2718163, at *2 (D. Ariz. July 12, 2022)
- Romero v. Synergy Restoration LLC, No. CV-24-01602-PHX-MTL, 2025 WL 509259, at *3 (D. Ariz. Feb. 14, 2025)
- Romero v. Steel Roots LLC, No. CV-23-01033-PHX-ROS, 2024 WL 2389353, at *2 (D. Ariz. May 23, 2024)
- Miles v. Thomas Suites Campus of Care LLC, No. CV-24-01286-PHX-SMM (JZB), 2025 WL 3251709, at *5 (D. Ariz. Nov. 3, 2025)
- Heredia v. IPVision Inc., No. CV-24-00116-TUC-RCC, 2024 WL 3951980, at *2 (D. Ariz. Aug. 27, 2024)
- Rios v. Lux Interior & Renovation LLC, No. CV-23-01686-PHX-DJH, 2026 U.S. Dist. LEXIS 60160, at *9-10, *12 (D. Ariz. Mar. 23, 2026)
- Lemus v. Blackrock CM Inc., No. CV-24-02561-PHX-JAT, 2025 WL 460548, at *3 (D. Ariz. Feb. 11, 2025)
- Moreno v. City of Sacramento, 534 F.3d 1106, 1112 (9th Cir. 2008)
- Hensley v. Eckerhart, 461 U.S. 424, 435 (1983)
- Quesada v. Thomason, 850 F.2d 537, 539 (9th Cir. 1988)
- United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003)

OPINION

1 WO 2 3 4 5 6 IN THE UNITED STATES DISTRICT COURT 7 FOR THE DISTRICT OF
ARIZONA 8 9 Alonso Alexander Guardado Lopez, No. CV-25-02009-PHX-SMM (JZB) 10
Plaintiff, REPORT AND RECOMMENDATION 11 v. 12 Air Pro Heating & Cooling LLC, et al.,
13 Defendants. 14 15 TO THE HONORABLE STEPHEN M. MCNAMEE, UNITED STATES
DISTRICT 16 JUDGE: 17 Pending before the Court is Plaintiff's "Renewed Motion for Award of
Attorneys' 18 Fees and Costs Against All Defendants" ("Renewed Motion for Attorneys' Fees")
(doc.

19 23). Plaintiff's Renewed Motion for Attorneys' Fees was timely filed in response to the 20
District Court's February 25, 2026, Order. Compare (doc. 23) with (doc. 22). This Report 21 and
Recommendation ("R&R") is filed pursuant to LRCiv 72.2, permitting a magistrate 22 judge to
issue reports and recommendations in connection with "post judgment 23 proceedings[.]" LRCiv
72.2(a)(16).

24 Plaintiff seeks a total award of \$7,074.80 in attorneys' fees and costs—comprised 25 of
\$6,497.00 in attorneys' fees and \$577.80 in costs—pursuant to the Fair Labor Standards 26 Act
("FLSA") and Arizona minimum wage law. (Doc. 23 at 1, 11.) Both the FLSA and 27 Arizona
state law permit a prevailing party to recover attorneys' fees and costs. See 29 28 U.S.C. § 216(b);
see also A.R.S. § 23-364(G).

In light of the Clerk of Court's entry of 1 Default Judgment (docs. 16–17) and the District Court's
prior Order (doc. 22), the Court 2 recommends Plaintiff's Renewed Motion for Attorneys' Fees be
granted with 3 modifications in the amount of attorneys' fees awarded. 4 I. BACKGROUND. 5 As
previously noted: 6 Plaintiff initiated this civil action with the filing of his Verified Complaint on
June 10, 2025.

See (doc. 1.) Plaintiff served all Defendants on 7 June 16, 2025. See (docs. 7–9.) Defendants'
deadline to answer or otherwise 8 respond to the Verified Complaint was on July 7, 2025. See
(doc. 10-1 at 1); see also Fed. R. Civ. P. 12(a)(1)(A). Defendants did not appear or otherwise 9
defend, leading to Plaintiff filing his Application for Entry of Default Against Defendants on July
31, 2025.

(Doc. 10.) The Clerk entered default against all 10 Defendants on August 1, 2025. (Doc. 11.) 11
On August 28, 2025, Plaintiff filed a Motion for Entry of Default Judgment Against Defendants.
(Doc. 12.) On October 23, 2025, this Court 12 issued a Report and Recommendation
recommending that Plaintiff's Motion 13 for Entry of Default Judgment be granted. (Doc.

15.) On November 13, 2025, the District Court issued an Order modifying this Court's Report and
14 Recommendation and granting Plaintiff's Motion for Entry of Default 15 Judgment. (Doc. 16.)

16 (Doc. 20 at 2.) 17 On November 25, 2025, Plaintiff filed his first Motion for Attorneys' Fees. (Doc. 18 18.)

In conjunction with that Motion, Plaintiff filed an LRCiv 54.1 Bill of Costs (doc. 19) 19 on the same day. On February 6, 2026, this Court issued an R&R recommending the motion 20 be granted in part. (Doc. 20.) On February 25, 2026, the District Court rejected the R&R 21 and required Plaintiff to file a renewed motion on or before March 6, 2026. (Doc. 22 at 5.)

22 On March 5, 2026, Plaintiff filed his Renewed Motion for Attorneys' Fees. (Doc. 23.) 23 II. LEGAL STANDARDS. 24 A. Eligibility and Entitlement. 25 Pursuant to Rule 54, a party may move for attorneys' fees and related non-taxable 26 expenses via motion that: (a) is filed within "14 days after the entry of judgment"; (b) 27 specifies the "grounds entitling the movant to the award"; (c) "state[s] the amount sought" 28 and (d) "disclose, if the court so orders, the terms of any agreement about fees for the 1 services for which the claim is made." Fed.

R. Civ. P. 54(d)(2)(B); see also LRCiv 54.2. 2 Here, the grounds entitling Plaintiff to an award of attorneys' fees and costs are the 3 FLSA and the Arizona Minimum Wage Act ("AMWA"). Under the FLSA, where an 4 employer fails to pay an employee's wages as required under 29 U.S.C. § 206, "[t]he court 5 in such action shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow 6 a reasonable attorney's fee to be paid by the defendant, and costs of the action." 29 U.S.C. 7 § 216(b).

Under the AMWA, where an "employer... fails to pay the wages... required 8 under this article," the "prevailing plaintiff shall be entitled to reasonable attorney's fees 9 and costs of suit." A.R.S. § 23-364(G). A party who prevails on default judgment is 10 considered the prevailing party. See G&G Closed Cir. Events LLC v. Carbajal, No. CV- 11 20-00838-PHX-SPL, 2020 WL 6699485, at *1 (D.

Ariz. Nov. 13, 2020) ("Parties 12 prevailing on default judgment are still prevailing parties for the purposes of awarding 13 attorneys' fees."). 14 B. Reasonableness. 15 In analyzing the reasonableness of requested attorneys' fees, the Court applies the 16 Lodestar method. See Puente Arizona v. Penzone, No. CV-14-01356-PHX-DGC, 2017 WL 17 4805116, at *1 (D.

Ariz. Oct. 25, 2017). The Lodestar method is a two-step process 18 whereby the court first "multiplies the number of hours reasonably expended on a case by 19 a reasonable hourly rate." Roberts v. City of Honolulu, 938 F.3d 1020,1023 (9th Cir. 2019) 20 (cleaned up). "Second, the court determines whether to modify the lodestar figure, upward 21 or downward, based on factors not subsumed in the lodestar figure." Kelly v. Wengler, 822 22 F.3d 1085, 1099 (9th Cir.

2016). 23 The reasonable hourly rate is assessed by "the prevailing market rate in the relevant 24 community." Id. To obtain an award of attorneys' fees and costs, the prevailing party must 25 file a

motion for fees and submit evidence in support of the proposed award. *Machowski v. 26 333 N. Placentia Prop., LLC*, 38 F.4th 837, 841 (9th Cir. 2022).

In determining the 27 reasonably hourly rate, the Court is not guided by the hours charged by the prevailing 28 party's attorney, but is rather "guided by the rate prevailing in the community for similar 1 work performed by attorneys of comparable skill, experience, and reputation." *Chalmers 2 v. City of Los Angeles*, 796 F.2d 1205, 1210–11 (9th Cir. 1986), opinion amended on denial 3 of reh'g, 808 F.2d 1373 (9th Cir.

1987) (citing *Blum v. Stenson*, 465 U.S. 886, 896 n.11 4 (1984)). 5 The number of hours considered in the Lodestar calculus is not limited to those 6 hours expended up to a favorable judgment. Rather, "[i]n statutory fee cases, federal courts, 7 including our own, have uniformly held that time spent in establishing the entitlement to 8 and amount of the fee is compensable." In *re Nucorp Energy, Inc.*, 764 F.2d 655, 659–60 9 (9th Cir.

1985). This includes FLSA actions. See *Gary v. Carbon Cycle Ariz. LLC*, 398 F. 10 Supp. 3d 468, 479 (D. Ariz. 2019) ("Indeed, courts within the Ninth Circuit have awarded 11 attorneys' fees to prevailing plaintiffs in FLSA actions for the costs incurred in preparing 12 their motions for attorneys' fees."). 13 "[I]n appropriate cases, the district court may judge the 'presumptively reasonable' 14 lodestar figure based upon the factors listed in *Kerr v. Screen Extras Guild, Inc.*.... that 15 have not been subsumed in the lodestar calculation." *Intel Corp. v. Terabyte Int'l, Inc.*, 6 16 F.3d 614, 622 (9th Cir.

1993). The Kerr factors are: 17 (1) the time and labor required, (2) the novelty and difficulty of the questions 18 involved, (3) the skill requisite to perform the legal service properly, (4) the preclusion of other employment by the attorney due to acceptance of the case, 19 (5) the customary fee, (6) whether the fee is fixed or contingent, (7) time 20 limitations imposed by the client or the circumstances, (8) the amount involved and the results obtained, (9) the experience, reputation, and ability 21 of the attorneys, (10) the 'undesirability' of the case, (11) the nature and 22 length of the professional relationship with the client, and (12) awards in similar cases.

23 24 *Kerr v. Screen Extras Guild, Inc.*, 526 F.2d 67, 70 (9th Cir. 1975), abrogated on other 25 grounds by *City of Burlington v. Dague*, 505 U.S. 557 (1992).1 26 III. DISCUSSION. 27 As previously noted, Plaintiff filed the instant Motion in response to the District 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 Court's prior Order (doc. 22). (Doc. 23 at 1.) The instant Motion does not appear to be 2 counsel's standard 'cookie cutter' motion for attorneys' fees, but is rather an individualized 3 motion in response to the District Court's Order. Nevertheless, the instant Motion does not 4 directly re-address the Kerr reasonableness factors. Instead, Plaintiff's Renewed Motion 5 for

Attorneys' Fees "waives" claims that the District Court has deemed unreasonable, 6 attaches an updated time sheet reflecting which hours were waived by counsel, incorporates 7 his prior Motion for Attorneys' Fees, and notes his objection to the District Court's prior 8 Order.

(Id. at 2, 5–10); (doc. 23-1 at 2–3.) Because the Renewed Motion incorporates his 9 prior Motion for Attorneys' Fees, the Court shall analyze it where the instant Motion has 10 not directly addressed a Kerr factor. Furthermore, this Court will not address Plaintiff's 11 objections, other than to say that the District Court's Order is well-reasoned precedent, and 12 should be treated as such.

13 Plaintiff's instant Motion seeks \$6,497.00 in attorneys' fees for 14.6 hours worked.² 14 (Doc. 23 at 11.) Additionally, Plaintiff seeks \$577.80 in out-of-pocket expenses. (Id.) All 15 told, Plaintiff seeks a total award of \$7,074.80. Plaintiff's counsel was not hired on an 16 hourly basis. Rather, he was hired on a contingency fee basis. See (doc. 18 at 4); see also 17 (doc.

18-1.) 18 The Court finds that the updated hours billed and updated hourly rate requested 19 presumptively reasonable.³ See *Ubinger v. Urb. Housekeeping LLC*, No. CV-23-01802- 20 PHX-ROS, 2024 WL 3045303, at *3 (D. Ariz. June 18, 2024) (finding that 24.2 hours 21 worked at \$445, for a total of \$10,769.00, was presumptively reasonable); see also *Delgado 22 v. Fast Wireless LLC*, No. CV-24-00203-PHX-JAT, 2025 U.S. Dist.

LEXIS 2433, at *5 23 (D. Ariz. Jan. 7, 2025) (finding 19.3 hours worked as presumptively reasonable). Because 24 2 Plaintiff states that the \$6,497.00 total is comprised of 14.6 hours worked at an 25 hourly rate of \$495. (Doc. 23 at 11.) Once again, the Court notes a mathematical error in Plaintiff's work. Specifically, $6,497 \neq 14.6 \times 495$. Rather, $6,497 = 14.6 \times 445$.

Counsel is 26 reminded of the District Court's admonition that the Court is neither "his auditor in chief" nor tasked with fixing errors in calculation. (Doc. 21 at 4–5.) However, considering the 27 Court finds \$445 an hour reasonable, see *infra* section III.A.5, Plaintiff's error is not fatal to the instant Motion. 28 3 Undersigned notes that Plaintiff's Bill of Costs (doc.

19) was filed within 14-days of Entry of Default Judgment. Hence, it is timely. See LRCiv 54.1(a). 1 the updated hours and hourly rate are presumptively reasonable, the Court shall address the 2 Kerr factors. 3 A. Reasonableness of Requested Attorneys' Fees. 4 The Court will address each individual Kerr reasonableness factor below. 5 1. Time and Labor. 6 Plaintiff's counsel asserts that he spent 14.6 hours on this action.

(Doc 23 at 11); 7 (doc. 23-1 at 3.) Plaintiff has "waived" all entries in this action that the District Court held 8 as unreasonable. (Id. at 1–2.) Additionally, the Court has identified other time entries that 9 should be excised. 10 "Attorneys' fees should not be given for the performance of administrative tasks 11 which could and should be performed by secretarial or paralegal staff." See

Gary, 398 F. 12 Supp. 3d at 487; see also *Avila v. JBL Cleaning LLC*, No. CV-23-00398-PHX-DJH, 2025 13 WL 755421, at *2 (D.

Ariz. Mar. 10, 2025) (excising administrative activities from 14 counsel's total hours worked). While hours spent on administrative tasks are not 15 compensable, the hours worked on a motion for attorneys' fees is compensable. See *In re 16 Nucorp Energy, Inc.*, 764 F.2d at 659–60 (holding that time spent on establishing 17 "entitlement to and amount of the [attorneys'] fee is compensable").

18 As noted above, Plaintiff's Renewed Motion is an individualized document filed in 19 response to the District Court's prior Order. Although Plaintiff has waived those entries 20 that the District Court considered unreasonable, his timesheet still reflects several entries 21 that appear unreasonable.

First, the Court finds Plaintiff's entry "Review Amended Order" 22 unreasonable considering the District Court's amended order and initial order were nearly 23 identical—i.e., nothing of substance was changed between the initial order on February 24, 24 2026, to the amended order on February 25, 2026. Compare (doc. 22) with (doc. 21). 25 Therefore, the 0.1-hour entry is unreasonable.

26 Second, the Court finds Plaintiff's 4.5 hours worked on the Renewed Motion for 27 Attorneys' Fees and the 0.6 hours spent researching Wong and Rodriguez unreasonable. 28 The Court reiterates "that time spent in establishing the entitlement to and amount of the 1 fee is compensable," *In re Nucorp Energy, Inc.*, 764 F.2d at 659–60, not time spent 2 objecting to the District Court's prior decision.

Regarding counsel's research of Wong and 3 Rodriguez, undersigned notes that only Rodriguez was used to support Plaintiff's 4 entitlement to an award of attorneys' fees—i.e., it was used to establish the standard of 5 review for attorneys' fee motions. (Doc. 23 at 3–4.)

Because Plaintiff used Wong to object 6 to the District Court's prior decision, it was not used in establishing Plaintiff's entitlement 7 to an award of attorneys' fees. Hence, the Court will cut the time entry in half to 0.3 hours. 8 Regarding the time spent drafting the Renewed Motion, the Court notes that roughly 9 a third of the Motion was dedicated to objecting to the District Court's prior decision.

See 10 (*id.* at 2, 5–9.) Because roughly a third of the Renewed Motion was spent lodging 11 objections to the District Court's prior Order, undersigned does not find that the full 4.5 12 hours spent drafting the instant Motion was spent on establishing an entitlement to 13 attorneys' fees. Cf. *In re Nucorp Energy, Inc.*, 764 F.2d at 659–60. Consequently, the Court 14 will reduce the hours spent on drafting by a third—i.e., 1.5 hours.

15 Therefore, the Court recommends the total hours billed be set at 12.7 hours. 16 2. Novelty and Difficulty of the Questions Involved. 17 The Court reiterates that, because this action resulted in a default judgment, there 18 were few novel or challenging questions incurred by Plaintiff. See (doc. 20 at 6.) Plaintiff 19 does not oppose this finding in his original Motion for Attorneys' fees—which was 20 incorporated by his Renewed Motion.

(Doc. 18 at 8) (noting that the issues involved in the 21 action “were not novel in this jurisdiction”). Consequently, this factor is neutral and does 22 not result in any modification of the Lodestar amount. Ubinger, at *3 (“This case involved 23 a straightforward claim that comes reasonably often before this Court. This factor is 24 neutral.”) (cleaned up).

25 3. Skill Requisite to Perform the Legal Service Properly. 26 In his incorporated Motion for Attorneys' Fees, Plaintiff alleged that although FLSA 27 suites are generally straightforward, the issues in the instant action “were sophisticated and 28 required extensive knowledge of the law[.]” (Doc. 18 at 9.)

The Court, as it noted in its 1 initial R&R, is unconvinced. See (doc. 20 at 6.) FLSA suits “take[] a moderate amount of 2 skill to litigate[.]” *Verduzco v. Value Dental Ctrs. Mesa W. AZ LLC*, No. CV-20-02380- 3 PHX-DJH, 2022 WL 2718163, at *2 (D. Ariz. July 12, 2022).

Accordingly, this factor is 4 also neutral. 5 4. Preclusion of Other Employment. 6 In his initial Motion for Attorneys' Fees, Plaintiff stated that counsel “was not 7 significantly precluded from other work because of this representation.” (Doc. 18 at 9.) 8 Plaintiff does not re-address this factor in his Renewed Motion. See generally (doc. 23.) 9 Hence, this factor is neutral.

10 5. Customary Fee. 11 Plaintiff, in both his Renewed Motion and initial Motion, asserts that the \$495-an- 12 hour fee is reasonable.⁴ (Id. at 11); (doc. 18 at 4.) Plaintiff has ignored this Court's prior 13 finding that a \$495-an-hour fee is unreasonable. (Doc. 20 at 7.)

As this Court previously 14 noted: 15 Considering the majority of the District of Arizona's precedent have found that \$445 an hour is reasonable,... the Court finds \$445 an hour is the 16 reasonable benchmark. See, e.g., *Romero v. Synergy Restoration LLC*, No. 17 CV-24-01602-PHX-MTL, 2025 WL 509259, at *3 (D. Ariz. Feb. 14, 2025) (“Counsel asserts that his hourly rate of \$445.00 is reasonable[.]

The Court 18 agrees.”) (citing *Romero v. Steel Roots LLC*, No. CV-23-01033-PHX-ROS, 19 2024 WL 2389353, at *2 (D. Ariz. May 23, 2024) (“The Court finds the prevailing rates for FLSA cases in the District of Arizona and Mr. Bendau's 20 experience support the requested hourly rate.

The Court finds the \$445 21 hourly rate reasonable.”)); *Miles v. Thomas Suites Campus of Care LLC*, No. CV-24-01286-PHX-SMM (JZB), 2025 WL 3251709, at *5 (D. Ariz. Nov. 3, 22 2025) (finding \$445 an hour is reasonable), report and recommendation 23 adopted as modified, No. CV-

24-01286-PHX-SMM (JZB), 2025 WL 3237453 (D. Ariz. Nov. 20, 2025); *Heredia v. IPVision Inc.*, No. CV-24- 24 00116-TUC-RCC, 2024 WL 3951980, at *2 (D.

Ariz. Aug. 27, 2024) 25 (finding \$445 an hour reasonable). 26 (Id.) 27 Lending further credit to this finding is the District Court’s recent decision in *Rios* 28 4 See supra note 2. 1 v. *Lux Interior & Renovation LLC*, which held that a \$445-an-hour fee is reasonable. *Rios* 2 v. *Lux Interior & Renovation LLC*, No. CV-23-01686-PHX-DJH, 2026 U.S. Dist. LEXIS 3 60160, at *9–10 (D.

Ariz. Mar. 23, 2026). Hence, undersigned recommends Plaintiff’s 4 counsel’s hourly rate be reduced to \$445. 5 6. Whether the Fee is Fixed or Contingent. 6 Counsel was hired by Plaintiff on a contingency fee basis. (Doc. 18 at 9.) “The Court 7 acknowledges that agreeing to a contingency fee basis of representation supports the 8 potential for a larger award of attorneys’ fees.” *Lemus v. Blackrock CM Inc.*, No. CV-24- 9 02561-PHX-JAT, 2025 WL 460548, at *3 (D.

Ariz. Feb. 11, 2025) (citing *Moreno v. City* 10 of *Sacramento*, 534 F.3d 1106, 1112 (9th Cir. 2008)). 11 7. Time Limitation Imposed. 12 In his initial Motion for Attorneys’ fees, which is incorporated in the instant Motion, 13 see (doc. 23 at 2), Plaintiff states that “[t]here was no time limitation imposed by either the 14 client or the circumstances.” (Doc.

18 at 11.) Therefore, this factor is of minimal relevance 15 in the Court’s balance of the Kerr factors. See *Lemus*, 2025 WL 460548, at *3. 16 8. The Amount Involved and Results Obtained. 17 In his initial Motion for Attorneys’ fees, which is incorporated in the instant Motion, 18 see (doc. 23 at 2), Plaintiff’s counsel claims that “he has obtained excellent results and has 19 assisted Plaintiff in recovering well in excess of the total amount in unpaid wages that 20 Defendants owed him.” (Doc.

18 at 12.) “Where a plaintiff has obtained excellent results, 21 his attorney should recover a fully compensatory fee.” *Hensley v. Eckerhart*, 461 U.S. 424, 22 435 (1983). Because Plaintiff’s counsel obtained a positive result, this factor “weighs in 23 favor of awarding the full lodestar amount.” *Ubinger*, 2024 WL 3045303, at *3. 24 9. Experience, Reputation, and Ability of the Attorney.

25 In the instant Motion and his initial Motion for Attorneys’ Fees, Plaintiff’s counsel 26 asserts his experience in litigating FLSA suits. See (doc. 23); see also (doc. 18.) The Court 27 acknowledge counsel’s experience. 28 // 1 10.

The Undesirability of the Case. 2 In his Renewed Motion for Attorneys’ Fees, Plaintiff’s counsel indirectly asserts the 3 undesirability of FLSA suits, such as by noting the need for him to pay for expenses “out 4 of pocket in each [FLSA] matter[.]” (Doc. 23 at 10.) Such statements on undesirability are 5 bolstered by his initial Motion for Attorneys’ Fees, which was incorporated in the instant 6 Motion.

See, e.g., (doc. 18 at 13) (noting the “the speculative amount of available fees” in 7 FLSA suits and the chance that out-of-pocket expenses may not be recovered). The Court 8 agrees that the instant action was undesirable.

However, “this factor does not justify an 9 adjustment to the lodestar amount.” Ubinger, 2024 WL 3045303, at *3. 10 11. The Nature and Length of the Professional Relationship with the Client. 11 Considering that this is the only matter that counsel Clifford Bendau has represented 12 Plaintiff, see (doc. 18 at 13), this factor is accordingly neutral. See Ubinger, 2024 WL 13 3045303, at *3 (“Mr.

Bendau has never represented Plaintiff before this case. This factor 14 is neutral.”). 15 12. Awards in Similar Cases. 16 This Court finds that a reduced award of attorneys’ fees in the amount of \$5,651.50 17 is reasonable in light of this District’s precedent.⁵ See Rios, 2026 U.S. Dist. LEXIS 60160, 18 at *12 (awarding \$11,392.00 in attorneys’ fees for 25.6 hours worked); see also Lemus, 19 2025 WL 460548, at *3 (granting \$7,743.00 in attorneys’ fees); Delgado, 2025 U.S. Dist.

20 LEXIS 2433, at *4 (D. Ariz. Jan. 7, 2025) (granting \$8,588.50 in attorneys’ fees). 21 13. Conclusion Based on the Kerr Reasonableness Factors. 22 Based on the foregoing, the Court recommends that the attorneys’ fees award be 23 reduced to \$5,651.50. 24 B. Out-of-Pocket Costs. 25 In the instant Motion, Plaintiff seeks \$577.80 in out-of-pocket costs. (Doc.

23 at 26 5 The Court notes that the reduced amount of attorneys’ fees is still in excess of the 27 actual award received. See (doc. 16). The Court notes that attorneys’ fees in excess of the actual award is not prohibited. See Quesada v. Thomason, 850 F.2d 537, 539 (9th Cir. 28 1988) (“[C]ourts should not reduce lodestars based on relief obtained simply because the amount of damages recovered on a claim was less than the amount requested.”).

1 11.) This includes \$405 Clerk’s fees and \$172.80 in fees for service of summons and 2 subpoena. (Doc. 19 at 1.) Seeing as Plaintiff filed a Bill of Costs and an invoice within the 3 14-day deadline, see (doc. 19), he has complied with LRCiv 54.1’s requirements. 4 Therefore, the Court recommends Plaintiff be awarded out-of-pocket costs in the amount 5 of \$577.80.

6 Accordingly, 7 IT IS RECOMMENDED that Plaintiff’s Renewed Motion for Award of Attorneys’ 8 Fees and Costs Against All Defendants (doc. 23) be GRANTED WITH 9 MODIFICATIONS. 10 IT IS FURTHER RECOMMENDED that Plaintiff receive attorneys’ fees in the 11 amount of \$5,651.50. 12 IT IS FURTHER RECOMMENDED that Plaintiff receive out-of-pocket costs in 13 the amount of \$577.80.

14 // 15 /// 16 // 17 /// 18 // 19 /// 20 // 21 /// 22 // 23 /// 24 // 25 /// 26 // 27 /// 28 // 1 This recommendation is not an order that is immediately appealable to the Ninth 2|| Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of || Appellate Procedure, should not be filed until entry of the district court’s judgment.

The 4|| parties shall have 14 days from the date of service of a copy of this Report and 5 || Recommendation within which to file specific written objections with the Court. See 28 6|| U.S.C. § 636(b)(1); Fed. R. Civ. P. 6(a), 6(b) and 72. Thereafter, the parties have 14 days 7 || within which to file a response to the objections. 8 Failure to timely file objections to the Magistrate Judge's Report and || Recommendation may result in the acceptance of the Report and Recommendation by the district court without further review.

See *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). Failure to timely file objections to any factual determinations of the 12 || Magistrate Judge will be considered a waiver of a party's right to appellate review of the 13 || findings of fact in an order of judgment entered pursuant to the Magistrate Judge's Report and Recommendation. See Fed.

R. Civ. P. 72. 15 Dated this 25th day of March, 2026. 16 ' lo 18 United States Magistrate Judge 19
20 21 22 23 24 25 26 27 28 -12-