UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS, INC.

Plaintiff,

v.

LOS ANGELES COUNTY METROPOLITAN TRANSIT AUTHORITY, et al.

Defendant.

Case No. 2:21-cv-07662-SSS-MAAx

ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF'S MOTION FOR ATTORNEY'S FEES [DKT. 118]

Before the Court is Plaintiff People for the Ethical Treatment of Animals, Inc.'s ("PETA") motion for attorney's fees (the "Motion"). [Dkt. 118]. This matter is fully briefed and ripe for review. [Dkt. 121, 122, 124]. Having read and reviewed the relevant briefing, the Court **GRANTS IN PART AND DENIES IN PART** the Motion in accordance with the opinion below.

I. BACKGROUND

PETA filed this action against Defendant Los Angeles County Metropolitan Transportation Authority ("Metro") in September of 2021. [Dkt. 1]. In its first amended complaint (the "FAC"), PETA challenged the

constitutionality of Metro's advertisement policies for Metro's buses and bus shelters. [Dkt. 32 at 3]. More specifically, PETA argued Metro's non-commercial advertising prohibition, and its implementation of the prohibition, violated the First Amendment of the United States Constitution. *Id.* at 10.[1]

On December 19, 2022, this Court granted PETA's motion for summary judgment and found, in relevant part, Metro's non-commercial advertisement prohibition unconstitutional. [Dkt. 57 at 25]. Thereafter, on January 4, 2023, the Court issued a final judgment and permanently enjoined Metro and its officers from, among other activities, enforcing Metro's non-commercial advertising prohibition. [Dkt. 60].

After the Court's final judgment, more litigation followed, most of which is not directly relevant here. [*See e.g.*, Dkt 65, 78]. However, on May 19, 2023, Metro moved to dissolve the injunction discussed above, arguing the injunction should be dissolved in light of Metro's new advertising policy. [Dkt. 95-1 at 11–13]. The Court denied the motion on November 8, 2023. [Dkt. 115]. As such, the injunction remains in effect today.

II. LEGAL STANDARD

"Under 42 U.S.C. § 1988, federal courts have discretion to award reasonable attorney's fees to the prevailing party in an action brought under the Civil Rights Act[.]" *Mkay, Inc. v. City of Huntington Park*, No. 17-cv-01467 SJO (AFMx), 2019 WL 1751823, at *2 (C.D. Cal. Mar. 7, 2019). A party qualifies as a prevailing party if it "obtain[s] at least some relief on the merits of [its] claim." *Farrar v. Hobby*, 506 U.S. 103, 111 (1992).

"The starting point for determining a reasonable fee is the 'lodestar' figure, which is the number of hours reasonably expended multiplied by a

[1] PETA also argued Metro's exception to the non-commercial advertising prohibition was unconstitutional. [Dkt. 32].

reasonable hourly rate." *Gates v. Deukmejian*, 987 F.2d 1392, 1397 (9th Cir. 1992) (citing *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983)). Importantly, the lodestar calculation is not the end of a court's inquiry. *Hensley*, 461 U.S. at 434. Rather, after calculating the lodestar figure, a district court may adjust the figure upwards or downwards based on a variety of factors, including "the extent of a plaintiff's success." *Id*. at 440.

III. DISCUSSION

A. Prevailing Party Status

The first question is whether PETA is a prevailing party within the meaning of 42 U.S.C. § 1988.[2] For the reasons set forth below, the Court finds PETA is a prevailing party.

A party is a prevailing party in a civil rights lawsuit if it "obtain[s] at least some relief on the merits of [its] claim." *Farrar*, 506 U.S. at 111. Here, the Court granted summary judgment in PETA's favor and found Metro's non-commercial advertisement prohibition, and its relevant exception, unconstitutional. [Dkt. 57 at 25]. Because of PETA's success at summary judgment, the Court entered a permanent injunction against Metro, enjoining Metro from enforcing Metro's unconstitutional policies. [Dkt. 60 at 2]. By obtaining such an injunction, PETA achieved success on its claims, and thus PETA is a prevailing party within the meaning of 42 U.S.C. § 1988. *See Farrar*, 506 U.S. at 111; *Sanchez v. Cnty of San Bernardino*, No. 10-cv-09384 MMM (OPx), 2014 WL 12734756, at *5 (C.D. Cal. Mar. 10, 2014) (finding plaintiff a prevailing party where the plaintiff received a verdict in his favor); *Watson v. Cnty of Riverside*, 300 F.3d 1092, 1096 (9th Cir. Aug. 20, 2002) (finding a plaintiff a prevailing party when he won a preliminary injunction).

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[2] Metro does not contest that PETA is a prevailing party. [Dkt. 121 at 5 (arguing PETA is entitled to 40% of the loadstar figure rather than 100%)].

B. Reasonableness of the Requested Fees

As the prevailing party, PETA seeks $260,825.00 in attorney's fees and $424.74 in costs. [Dkt. 118-1 at 26]. Metro accepts PETA's costs, but challenges PETA's attorney's fee requests on a variety of bases. [Dkt. 121 at 17]. When determining the reasonableness of requested fees, courts begin by calculating the lodestar figure, which is the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate. *Gates*, 987 F.2d at 1397.

1. The Reasonable Rates

The Court begins by determining the reasonable rate for PETA's counsel, Matthew Strugar ("Strugar"), and PETA's paralegal, Jeremy Beckham, ("Beckham").

The party seeking fees bears the burden of producing evidence that their claimed rates and hours worked are reasonable. *See Intel Corp. v. Terabyte Int'l*, 6 F.3d 614, 623 (9th Cir. 1983). In determining what is a reasonable rate, courts look to the "prevailing market rates in the relevant community." *Gates*, 987 F.3d at 1405. The relevant community is typically the community in which the district court sits. *Schwarz v. Sec'y of Health & Human Servs.*, 73 F.3d 895, 906–07 (9th Cir. 895). "Declarations from local attorneys who practice in the same area of law regarding the prevailing market rate in the relevant community suffice to establish a reasonable hourly rate." *Sanchez*, 2014 WL 12734756, at *7 (collecting cases). However, courts may also rely on their own knowledge of rates and look to other relevant cases to determine what rates are reasonable within the community. *Mkay*, 2019 WL 1751823, at *3 (citing *Ingram v. Oroudijian*, 647 F.3d 925, 928 (9th Cir. 2011)); *Camacho v. Bridgeport Fin., Inc.*, 523 F.3d 973, 980 (9th Cir. 2008).

i. Strugar's Rate

Strugar seeks a rate of $850 per hour. [Dkt. 118-1 at 15]. Metro challenges this rate and argues the rate should be lowered. [Dkt. 121 at 10–13]. As set forth below, Strugar's requested rate of $850 an hour is reasonable for two reasons.

First, Strugar's rate is reasonable because it is similar to, or less than, the rates awarded to attorneys of similar or lesser experience in other civil rights actions. Strugar graduated from the Gould School of Law in 2004 and has been practicing for almost 20 years. [Dkt. 118-2 at 2–5]. During his time in practice, Strugar has argued cases before the Fourth, Eighth, Ninth, D.C. Circuit Court of Appeal, California Supreme Court, and numerous district courts across the country. [Dkt. 118-1 at 15]. Based on this Court's experience and research, attorneys of similar or lesser experience have been awarded hourly rates close to or greater than $850 in civil rights actions in this district. *See e.g.*, *McKibben v. McMahon*, No. 14-2171-JGB-SPx, 2019 WL 1109683, at *14 (C.D. Cal. Feb. 29, 2019) (finding hourly rates for civil rights attorneys between $336 and $1,230 per hour reasonable depending on attorneys' experience); *Valenzuela v. City of Anaheim*, No. 17-cv-00278-CJC (DFMx), 2023 WL 2249178, at *3–4 (C.D. Cal. Feb. 23, 2023) (finding $850 per hour reasonable for a civil rights attorney who graduated law school 17 years ago). Given the above, Strugar's rate is reasonable.

Second, the Court finds Strugar's rate reasonable because the declaration of Carol Sobel (the "Sobel Declaration") establishes Strugar's requested rate is "in line with or below the range of rates" charged by attorneys of similar skill and experience in the Los Angeles legal market. [Dkt. 118-6 at 9]. Importantly, Sobel reached this conclusion by analyzing fee awards in other civil rights cases in the Central District of California. *Id*. at 6. Here, the Court joins other courts in this district and finds the Sobel Declaration adequately supports Strugar's

claimed rate, and thus finds the rate reasonable. *See e.g.*, *Estate of Clemente Najera Aguirre v. Cnty of Riverside*, No. 18-cv-762-DMG (SPx), 2024 WL 2107727, at *4–5 (C.D. Cal. Mar. 29, 2024) (finding rates reasonable based in part on Sobel's declaration); *Valenzuela*, 2023 WL 2249178, a *3–4 (relying in part on Sobel's declaration).

Metro makes a variety of arguments as to why Strugar's rate is unreasonable. For the reasons stated below, Metro's arguments fail.

First, Metro argues Strugar's rate is unreasonable because he failed to disclose the actual rate PETA paid him. [Dkt. 121 at 10]. This argument fails because the Court can calculate Strugar's reasonable hourly rate without regard to the actual charged rate. *See e.g..*, *Chalmers v. City of Los Angeles*, 796 F.2d 1205, 1210 (9th Cir. 1986) (noting the calculation of the reasonable hourly rate of an attorney is "not made by reference" to the rates charged by the prevailing party); *Viveros v. Donahoe*, No. 10-cv-08593 MMM, 2013 WL 1224848, at *3 (C.D. Cal. Mar. 27, 2013); *Perfect 10 Inc. v. Giganews, Inc.*, No. 11-cv-070980-AB (SHx), 2015 WL 1746484, at *18 (C.D. Cal. Mar. 24, 2015) (stating the actual rate charged by a lawyer is "one factor" that courts may consider in determining whether the rate sought is reasonable) (citing *Maldonado v. Lehman*, 811 F.2d 1341, 1342 (9th Cir. 1987)); *Neman Bros. and Assoc., Inc. v. One Step Up, Ltd.*, No. 2:17-cv-06400-RGK-SSx, 2018 WL 1414567, at *4 (C.D. Cal. Feb. 12, 2018).

Second, Metro argues Strugar's rate should be lower because Strugar is a solo practitioner, and thus his reliance on the Real Rates Report is improper. [Dkt. 121 at 11–12]. This argument fails because (1) numerous district courts have disapproved of this argument, and (2) the Ninth Circuit requires courts to look to the "prevailing market rate[,]" rather than to rates charged by other similarly sized or staffed firms. *See e.g.*, *Dytch v. Lazy Dog Restaurant, LLC*, No. 16-cv-03358-EDL, 2019 WL 3928752, at *4 (N.D. Cal. Aug. 16, 2019);

Kalani v. Starbucks Corp., No. 13-cv-00734, 2016 WL 379623, at *4 (N.D. Cal. Feb. 1, 2016) (declining to penalize "prevailing clients of civil rights attorneys practicing at smaller firms"); *Charlebois v. Angels Baseball LP*, 993 F. Supp. 2d 1109, 1120–21 (C.D. Cal. May 30, 2012) (noting the Supreme Court and the Ninth Circuit have endorsed comparisons between lawyers of "comparable skill, experience, and reputation" rather than between lawyers at similarly sized firms or prestige levels); *Gates*, 987 F.3d at 1405.

Third, Metro argues Strugar's rate should be reduced because Strugar claimed lower rates for his work in the past. [Dkt. 121 at 12]. It is expected, and generally known, that an attorney's rate will increase in accordance with their skills, experiences, and talents. *See LaPeter v. Canada Life Ins. Co. of Am.*, No. 06-cv-121-S-BLW, 2009 WL 131336, at *3 (D. Idaho May 11, 2009) (stating "[i]t is typical for rates to increase on a yearly basis and, also, for associates' and paralegals' rates to increase as they gain more experience"). Thus, it makes sense that Strugar's 2019 and 2022 rates would be less than his 2023 or 2024 rates, and Metro's argument fails.[3]

ii. Beckhman's Rate

The Court turns now to Beckham's requested fee of $175 an hour. Courts in this district routinely award paralegals rates below $175 an hour. *See e.g.*, *Guadalupe R-P v. Kijakazi*, No. 20-cv-8718-RDWL (PLA), 2021 WL 8153975, at *1–2 (C.D. Cal. Oct. 4, 2021) (awarding a rate of $125 an hour); *Montes v. Duran*, No. 2:20-cv-00468-MCS-RAO, 2021 WL 3623306, at *3 (C.D. Cal.

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[3] Metro also argues Strugar's rate should be reduced because PETA's only claim was a "traditional constitutional claim." [Dkt. 121 at 14]. While the Court considers the "complexity of the legal issues" in determining a reasonable market rate, the Court finds the issues presented in PETA's claim are sufficiently complex as to warrant Strugar's rate. *Herring Networks, Inc. v. Maddow*, No. 3:19-cv-1713-BAS-AHG, 2021 WL 409724, at *5 (S.D. Cal. Feb. 5, 2021);

Aug. 3, 2021) (surveying cases and awarding $90.00 per hour for a paralegal). In light of the above, the Court finds Beckham's reasonable rate to be $90.00 an hour.[4] [Dkt. 118-5].

2. Hours Expended

Having established the reasonable hourly rates, the Court next turns to the reasonable hours expended in this litigation. Here, PETA's records indicate Strugar and Beckham respectively billed 301.5 hours and 26 hours on this matter. [Dkt. 118 at 28]. Importantly, Metro only challenges 82.35 of Strugar's hours. [Dkt. 121 at 16–17]. Metro also argues the Court should decline to award fees for Beckham's work. *Id*. The Court addresses any relevant reductions below.

"A court may award attorneys' fees only for the number of hours it concludes were reasonably expended litigating the case." *Mardirossian v. Guardian Life Ins. Co. of Am.,* 457 F.Supp.2d 1038, 1049 (C.D. Cal. Oct 18, 2006). The movant bears the burden of providing the court with adequate evidence supporting their requested hours. *Hensley*, 461 U.S. at 437. Courts must carefully scrutinize the evidence of documented hours and exclude "hours that are 'excessive, redundant, or otherwise unnecessary.'" *U.S.A. et al v. Manpow, L.L.C.*, No. 2:21-05418 VAP-ADSx, 2023 WL 5505893, at *3 (C.D. Cal. June 29, 2023) (quoting *Hensley*, 461 U.S. at 434). The Court begins its analysis with billing records submitted by the movant. *Gonzales v. City of Maywood*, 729 F.3d 1196, 1202 (9th Cir. 2013).

i. Strugar's Hours

First, Metro argues the Court should subtract 1.9 hours of Strugar's

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[4] The Court also notes Beckham's declaration fails to contain any evidence of certificates, skills, or specialized training that could warrant a high rate of $175 per hour. [Dkt. 118-5].

claimed time because the work was done before the filing of the initial complaint. [Dkt. 121 at 15]. In general, "[t]ime spent reasonably on matters like 'pre-complaint investigation, legal research, and informal discovery relevant to developing the theory of the case is properly recoverable.'" *Strong Trading Inc. v. Unique Designs, Inc.*, No. 2:21-cv-04206-RGK-PVC, 2022 WL 22715189, at *3 (C.D. Cal. Oct. 4, 2022) (citing *Pierce v. City of Orange*, 905 F. Supp. 2d 1017, 1028 (C.D. Cal. 2012)). Here, the challenged entries all relate to developing PETA's theory of the case, and, because the times recorded are also reasonable, the Court declines to reduce Strugar's hours by 1.9 hours. [Dkt. 122-1 at 2–7].

Second, Metro also argues the Court should subtract .1 hours for Strugar's work on PETA's press release. [Dkt. 121 at 15]. Because PETA failed to show the press release was intimately and directly related to the success of their case, the Court agrees with Metro and subtracts .1 hours from Strugar's hours. *See Gilbrook v. City of Westminster*, 177 F.3d 839, 877 (9th Cir. 1999) (noting attorneys are entitled to fees for press conference and public relation work so long as those efforts are "directly and intimately related" to the claims' success).

Third, Metro also contends the Court should subtract 3.9 hours from Stugar's hours for the work done researching other possible defendants. [Dkt. 121 at 15]. Here, based on PETA's response, the Court finds these hours were relevant to developing PETA's case, particularly given Metro's stance in its Rule 26(f) report, and thus declines to subtract them from the overall total. [Dkt. 124 at 19]; *see Melendres v. Maricopa Cnty*, 878 F.3d 1214, 1216 (9th Cir. 2018) (noting courts should award fees for work expended in pursuit of the ultimate result achieved[]'") (quoting *Hensley*, 461 U.S. 424, 435 (1983)).

Fourth, Metro argues Strugar's hours should be reduced by at least 30 percent because a significant portion of Strugar's work could have been done by

junior or non-attorney staff. [Dkt. 121 at 15]. The Court disagrees. To begin, reducing Strugar's hours because of his decision to be a solo practitioner is illogical and unfairly burdens solo civil rights attorneys. *See U.S. v. 28,000.00 in U.S Currency*, 802 F.3d 1100, 1110 (9th Cir. 2015) (noting "reducing a solo practitioner's award because he could not delegate work to lower billing employees makes little sense and unfairly penalizes solo practitioners"). Second, the Court declines to reduce Strugar's hours for his staffing decisions because the Ninth Circuit has advised courts that they may not set the fee award "based on speculation as to how other firms would have staffed the case." *Moreno*, 534 F.3d at 1114.[5] As such, Metro's argument fails.

Finally, Metro argues 10 hours should be removed because of PETA's redacted time entries. [Dkt. 121 at 16]. A court may deny portions of a fee application relating to redacted entries if the redactions render the documentation inadequate. *See Berman v. Colvin*, No. 2:12-cv-0816-PMP-PAL, 2014 WL 4809886, at *6 (D. Nev. Sept. 29, 2014) (citing *Hensley*, 461 U.S. at 433). Having looked through Strugar's billing records, the Court finds a reduction of 7.7 hours is appropriate as certain redactions make it impossible for the Court to ascertain the reasonableness of the time claimed. [Dkt. 188-2 at 14, 24, 26]; *Moofly Prods., LLC v. Favila*, No. 13-cv-05866 SJO (PJWx), 2015 WL 6681164, at *4 (C.D. Cal. Nov. 2, 2015) (reducing hours for an entry reading "'with [redacted] about [redacted]'")

In sum, the Court **REDUCES** Strugar's hours by 7.8 hours, and finds the remaining hours to be adequately supported and reasonable. As such, Strugar's

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[5] The Court recognizes that the discussion in *Moreno* is in regard to the hourly fee of the lodestar calculation, but the Court finds the reasoning to be equally applicable to the reasonable hours calculation. *See Johnson v. Bourbon Props, LLC*, No. 2:14-cv-02949-MCE-AC, 2019 WL 1426340, at *2 (E.D. Cal. Mar. 29, 2019) (applying the logic of *Moreno* to the reasonable hours calculation).

total reasonable hours spent is 293.7 hours.

ii. Beckham's Hours

Turning to Beckham's hours, PETA claims Beckham worked 26 hours on this litigation. [Dkt. 118 at 15]. Metro argues Beckham's hours should be entirely disregarded because the paralegal failed to show his work was not purely clerical. [Dkt. 121 at 17]. For the reasons set forth below, the Court reduces Beckham's hours by 50% for a total of 13 hours.

Separately billed paralegal fees are collectible under Section 1988(b) so long as the fees comport with the relevant market rates and practices. *Perez v. Cate*, 632 F.3d 553, 556 (9th Cir. 2011). However, purely clerical tasks should not be included in attorney's fees at all. *Donastorg v. City of Ontario*, No. 18-cv-992 JGB (Spx), 2021 WL 6103545, at *11 (C.D. Cal. Sept. 23, 2021).

Here, PETA provides the Court Beckham's declaration which breaks down, day by day, how many hours Beckham spent compiling PETA's statement of uncontroverted facts. [Dkt. 118-5 at 2]. However, Beckham's declaration fails to detail what portions of those hours were spent reviewing the relevant depositions and "document production." *Id*. As such, Beckham's declaration fails to show Beckham's requested hours are reasonable. *Aviles v. Subaru of Am., Inc.*, No. 1:18-cv-01544, 2020 WL 868842, at *5 (E.D. Cal. Feb. 21, 2020) (reducing reasonable hours from 14 to 1.5 where movant failed to provide evidence that the hours claimed were reasonable); *Trs. of Directors Guild of America-Producer Pension Benefits Plans v. Tise*, 234 F.3d 415, 427 (9th Cir. 2000) (citing *Hensley*, 461 U.S. at 437); *Braddock v. Jolie*, No. 12-cv-05883-DMG (VBKx), 2013 WL 12130563, at *5 (C.D. Cal. June 7, 2013).

However, after review of Beckham's declaration, the Court finds, given the length of the statement of uncontroverted facts, an award of 13 hours is

reasonable and thus warranted. *See Gonzales*, 729 F.3d at 1202.[6]

3. Total Lodestar Calculation

In accordance with the above, the Court finds the reasonable hours spent on this matter to be 306.7 hours in total. The lodestar figure is calculated as follows: 293.7 hours is multiplied by Strugar's reasonable rate of $850 and 13 hours is multiplied by Beckham's reasonable rate of $90 per hour. Thus, the lodestar figure is $250,815.

C. Downward Deviation

While the lodestar figure is presumed to be a reasonable fee, courts may increase or reduce the fee in "rare and exceptional cases." *Sanchez*, 2014 WL 12734756, at *17; *Fisher v. SJB-P.D., Inc.*, 214 F.3d 1115, 1119 n.4 (9th Cir. 2000). In determining whether to adjust the lodestar figure, courts weigh the factors identified in *Kerr v. Screen Extras Guild, Inc.*, 526 F.2d 67, 70 (9th Cir. 1975). Those factors include the following: (1) the time and labor required for the litigation; (2) the novelty and difficulty of the questions presented; (3) the skill required to perform the legal services properly; (4) the preclusion of other employment by the attorney due to acceptance of the case; (5) the customary fee; (6) whether the fee is fixed or contingent; (7) time limitations imposed by the client or the circumstances; (8) the amount involved and the result obtained; (9) the experience, reputation, and ability of the attorneys; (10) the "undesirability" of the case; (11) the nature and length of the professional relationship with the client; and (12) awards in similar cases.[7] *Id*.

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[6] The Court also finds Beckham's work not purely clerical in nature. *See Neil v. Comm'r of Social Sec.*, 495 Fed. Appx. 845, 847 (9th Cir. 2012) (affirming district court's refusal to award fees for purely clerical work such as "filing documents and preparing and serving summons").

[7] Many of these factors are subsumed by the lodestar analysis. *See Fisher*, 214 F.3d at 1119.

The most critical factor in determining the reasonableness of a fee award is the level of success obtained by the prevailing party. *See Farrar*, 506 U.S. at 114 (quoting *Hensley*, 461 U.S. at 436); *see also Sanchez v. Cnty of San Bernardino,* No. 10-cv-09384 MMM (OPx), 2014 WL 12734756, at *18 (C.D. Cal. Mar. 10, 2014). Courts consider two issues "in evaluating a party's degree of success." *Sanchez*, 2014 WL 12734756, at *18 (citing *Webb v. Sloan*, 330 F.3d 1158, 119 (9th Cir. 2003)).

The first step is to consider whether the prevailing party lost on claims that are unrelated to the claims on which it succeeded, as fees "should not be awarded for hours spent on claims that were entirely distinct, unrelated, and unsuccessful." *Id*. An unsuccessful claim is related to a successful claim if it "arose from a common core of facts" or if it argues a "related legal theor[y.]" *McCown v. City of Fontana*, 565 F.3d 1097, 1103 (9th Cir. 2009); *McCown v. City of Fontana*, 711 F. Supp. 2d 1067, 1070 (C.D. Cal. Mar. 31, 2010). If a prevailing parties' claims are all related to the claim on which it succeeded, the court "should not attempt to divide the request for attorney's fees on a claim-by-claim basis." *McCown*, 565 F.3d at 1103. Instead, the Court moves on to step two.

The second step requires the Court to consider whether the prevailing party "achieved a level of success that makes the hours reasonably expended a satisfactory basis for making a fee award." *Webb*, 330 F.3d at 1169. In conducting this analysis, courts look to the "significance of the overall relief obtained[,]"and, where a plaintiff obtained excellent results, their attorney "should recover a fully compensatory fee." *Hensley*, 461 U.S at 435. Importantly, "a plaintiff may obtain excellent results without receiving all the relief requested." *Webb*, 330 F.3d at 1168 (citing *Hensley*, 461 U.S. at 435 n. 11).

Here, Metro argues the Court should reduce the lodestar figure by 40 percent because PETA, despite winning its summary judgment motion, lost certain arguments and failed to receive an order from the Court ordering Metro to carry PETA's advertisements.[8] [Dkt. 121 at 9-10]. For the reasons set forth below, this argument fails, and the Court finds awarding the full lodestar figure is warranted.

First, Metro's argument conflates success on arguments with success on claims. In measuring a prevailing parties' level of success in attorney's fees motions, courts routinely determine the level of a parties' success by examining success on claims, rather than on individual arguments. *See e.g., Mkay*, 2019 WL 1751823, at *6 (calculating a success rate by considering which claims the plaintiff won and lost); *Sanchez*, 2014 WL 12734756 at *18 (measuring success after analyzing which claims were related or unrelated to the successful claims). As such, Metro's argument misses the mark and has little bearing on how the Court should measure PETA's success.

Second, when applying the framework outlined in *Sanchez*, the Court finds a full fee award is warranted. As to the first step, PETA prevailed on its singular claim by winning at summary judgment and, because PETA only alleged one claim, no unrelated claims exist that could result in a reduction in fees. *Sanchez*, 2014 WL 12734756 at *18; [Dkt. 33]. Turning to the second step, the Court finds, in receiving a final judgment and a permanent injunction against Metro, PETA obtained excellent results, and thus should receive a fully compensatory fee. *Hensley*, 461 U.S at 435. The fact that PETA is unable to run its adds on Metro's buses makes little difference to this Court's analysis

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[8] While there are many *Kerr* factors, the Court notes Metro's sole argument for a reduction is the level of PETA's success. [Dkt. 121 at 8–10 (arguing a 40 percent reduction is warranted because of PETA's allegedly limited success)].

because a plaintiff can achieve "excellent results" without "receiving all the relief requested." *Webb*, 330 F.3d at 1168.

Thus, in accordance with the above, the Court finds a downward deviance is not warranted.

D. Post-Judgment Interest

Finally, PETA seeks post-judgment interest at the rate specified in 28 U.S.C. § 1961(b). Metro does not oppose this request. As such, the Court **GRANTS** PETA's Motion for post-judgment interests. *Ramirez v. Escondido Unified School Dist.*, No. 11-cv-1823 DMS (BGS), 2014 WL 12675859, at *6 (S.D. Cal. Apr. 17, 2014).

IV. CONCLUSION

For the reasons stated above, the Court **GRANTS IN PART AND DENIES IN PART** PETA's Motion. [Dkt. 118]. The Court hereby awards PETA attorney's fees in the amount of $250,815, costs in the amount of $424.74, and post-judgment interest at the rate set forth in 28 U.S.C. § 1961(a).

IT IS SO ORDERED.

DATED: June 13, 2024

SUNSHINE S. SYKES
United States District Judge