



## **Wyckoff Farms Incorporated v. Industrial Control Concepts Inc et al**

2021 | Cited 0 times | E.D. Washington | December 9, 2021

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF WASHINGTON

WYCKOFF FARMS, INCORPORATED, a Washington corporation,

Plaintiff,

v. INDUSTRIAL CONTROL CONCEPTS, INC., d/b/a ICC, INC., a Missouri corporation, ICC NORTHWEST, INC., an Oregon corporation, and ICC TURNKEY, INC., a Missouri corporation, Defendants.

NO: 4:20-CV-5095-TOR

ORDER GRANTING SECOND MOTION FOR PARTIAL SUMMARY JUDGMENT

BEFORE THE COURT is Second Motion for Partial Summary Judgment (ECF No. 45). This matter was submitted for consideration without oral argument. The Court has reviewed the record and files herein, and is fully informed. For the reasons discussed below, Judgment (ECF No. 45) is granted.

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**BACKGROUND** This case concerns construction contracts related to an extraction facility. ECF No. 16. On September 21, 2021, the Court found that they had a duty to defend Plaintiff in an underlying state court action. See

ECF No. 37. The Court also found Plaintiff incurred reasonable fees, costs, and prejudgment interest in the amount of \$21,285.47 for defending the third- claim of lien and related state court litigation. Id. at 4.

present motion seeks legal fees in the amount of \$38,425 and costs in the amount of \$1,002.35 incurred since July 2021, largely related to discovery and an opposition to a motion for summary judgment in the underlying litigation. See ECF No. 45. Defendants do not dispute they are responsible for reasonable attorney invoices as excessive, redundant, or unnecessary. ECF No. 62 at 2-5.

**DICSUSSION** 1 abuse of discretion. *Sapper v. Lenco Blade, Inc.*, 704 F.2d 1069, 1073 (9th Cir.



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1984); Red v. Kraft Foods Inc. 1

The summary judgment standard No. 37.

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hours reasonably expended multiplied by the reasonable hourly rate of compensation. Hensley v. Eckerhart, 461 U.S. 424, 433 (1983); Johnson v. MGM Holdings, Inc., 943 F.3d 1239, 1242 (9th Cir. 2019). This lodestar calculation is presumptively reasonable. Camacho v. Bridgeport Fin., Inc., 523 F.3d 973, 978 (9th Cir. 2008).

Vargas v. Howell, 949 F.3d 1188, 1194 (9th Cir.

2020) (quoting Blum v. Stenson, 465 U.S. 886, 895 (1984)). Courts typically use the rates of comparable attorneys in the forum district, here the Eastern District of Washington. Gates v. Deukmejian, 987 F.2d 1392, 1405 (9th Cir. 1992); Montes v. City of Yakima, No. 12-CV-3108-TOR, 2015 WL 11120966, at \*3 (E.D. Wash. June 19, 2015). When determining the reasonableness of the hours expended, the Gates, 987 F.2d at 1397 (quoting Hensley, 461 U.S. at 433-34).

other attorneys with similar levels of experience. ECF No. 37 at 5. As to the hours

expended, the Court finds the hours are reasonably expended and are not excessive, redundant, or otherwise unnecessary. Gates, 987 F.2d at 1397. The

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summary judgment hearing at issue presented relatively complex issues and a large amount of money is at stake. See ECF No. 70 at 6-7; ECF No. 71.

discovery and the opposition to summary judgment are not well taken where

Defendants stipulated to their failure to defend the very claim Plaintiff is now defending. The number of hours reasonably expended considering the issues and amount of money in dispute.

Therefore, summary judgment on the present fees incurred since July 2021 is appropriate. ACCORDINGLY, IT IS HEREBY ORDERED:

1. Second Motion for Partial Summary Judgment (ECF No. 45)

is GRANTED. 2. Plaintiff Wyckoff Farms, Incorporated is awarded \$38,425 in attorney



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fees and \$1,002.35 in costs for a total amount of \$39,427.35 payable by Defendants ICC, Inc., ICC Northwest, Inc, and ICC Turnkey, Inc. Upon entry of judgment, interest will accrue on the unpaid balance at the statutory rate for federal judgments according to 28 U.S.C. § 1961. 3. Pursuant to Fed. R. Civ. P. Rule 54(b), the Clerk of Court shall enter a

partial judgment in favor of Wyckoff Farms, Incorporated and against Defendants ICC, Inc., ICC Northwest, Inc, and ICC Turnkey, Inc. Case 4:20-cv-05095-TOR ECF No. 73 filed 12/09/21  
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The District Court Clerk is directed to enter this Order and Judgment accordingly and provide copies to counsel. The file remains open. DATED December 9, 2021.

THOMAS O. RICE United States District Judge Case 4:20-cv-05095-TOR ECF No. 73 filed 12/09/21  
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