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Superior Court of California,
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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF SAN DIEGO - CENTRAL

11 SAN DIEGO PATIENTS COOPERATIVE)
12 CORP, et. al.,)

13 Plaintiffs,)

14 vs.)

15 RAZUKI INVESTMENT L.L.C., et. al.,)

16 Defendants.)

Case No.: 37-2017-00020661-CU-CO-CTL

**OPPOSITION TO MOTION TO TAX
AND/OR STRIKE COSTS**

DATE: May 31, 2024

TIME: 9:00 a.m.

DEPT.: 67

JUDGE: Hon. Michael T. Smyth

17 ATTACHED: JAFFE DECLARATION
18)
19)

20 Defendants Razuki Investments, LLC and Salam Razuki submit their Opposition To The
21 Motion To Tax And/Or Strike Costs as follows:

22
23 **I. Legal Standard**

24 California Code of Civil Procedure section 1033.5 sets forth the costs recoverable by the
25 prevailing party in a civil action. Among those allowable items are filing and motion fees,
26 deposition costs, and service of process fees. (Code Civ. Proc., § 1033.5, subdivs. (a)(1), (a)(3),
27 (a)(4).) Recovery of those enumerated costs is limited only by the requirements that the costs
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1 recovered must have been "reasonably necessary" to the litigation and reasonable in amount.
2 (Thon v. Thompson (1994) 29 Cal.App.4th 1546, 1548.) Determination of whether a cost is
3 "reasonable" rests solely within the trial court's discretion. (Id).

4 The party challenging costs has the burden to identify specific costs that are unreasonable
5 or unnecessary. See, *Nelson v. Anderson* (1999) 72 Cal.App.4th 111, 131 ("If the items
6 appearing in a cost bill appear to be proper charges, the burden is on the party seeking to tax
7 costs to show that they are not reasonable or necessary."); *County of Kern v. Ginn* (1983) 146
8 Cal.App.3d 1107, 1113-1114 (A motion to tax costs must be supported by factual recitals).

9 The verified memorandum of costs is prima facie evidence of the propriety of said costs,
10 and "the burden is on the party seeking to tax costs to show that they were not reasonable or
11 necessary." *Ladas v. Cal. State Auto. Assn.* (1993) Cal. App. 4th, 761, 774. Merely filing a
12 motion to tax costs, as here, does not shift the burden to the party seeking its costs to prove the
13 necessity or reasonableness of those costs. See *Nelson v. Anderson* (1999) 72 Cal. App. 4th 111,
14 131; *Ladas*, 19 Cal. App. 4th at 774-76; *Rappenecker v. Sea-Land Service, Inc.* (1979) 93 Cal.
15 App.3d 256, 266. There is no requirement for invoices. See, *Jones v. Dumrichob* (1998) 63
16 Cal.App.4th 1258, 1267 ("[t]here is no requirement that copies of bills, invoices, statements, or
17 any other such documents be attached to the memorandum.").

18 For this motion, Plaintiffs has done little more than recite the amounts claimed by Salam
19 Razuki. They have undertaken no action to show the unreasonableness of the costs because they
20 cannot. Salam Razuki was forced to incur numerous recoverable costs because of Plaintiffs'
21 complaint against him, **for which Plaintiffs lost as against Razuki, and Plaintiff San Diego**
22 **Patients Cooperative Corp. recovered nothing.**

23 24 **II. Alleged Joint Costs**

25 Plaintiffs' argument regarding "unity of interest" of parties for purposes of costs has been
26 expressly rejected by the 4th District Court of Appeal. See, *Charton v. Harkey*, 247 Cal.App.4th
27 730, 741-742 (Cal. Ct. App. 2016)(A prevailing party is entitled to recover costs as a matter of
28 right even if that party joined with non-prevailing parties).

1 Salam Razuki (“Razuki”) paid the costs claimed. *See*, Jaffe Declaration in opposition to
2 the motion.

3 The motion does not dispute that Razuki prevailed.

4 Razuki should be entitled to the costs he incurred since he prevailed (even if that party
5 joined with non-prevailing parties). *See, Charton v. Harkey*, 247 Cal.App.4th 730, 741-742 (Cal.
6 Ct. App. 2016).

7 The motion does not address that Plaintiffs sued Defendants Razuki Investments, LLC,
8 Salam Razuki, Keith Henderson, Ninus Malan, Balboa Ave Cooperative, American Lending and
9 Holdings, LLC, San Diego United Holdings Group, LLC and California Cannabis Group.

10 The motion also does not address that Plaintiffs were completely unsuccessful (including
11 non-suit motions and dismissed parties) as to Defendants Salam Razuki, Ninus Malan, Balboa
12 Ave Cooperative, American Lending and Holdings, LLC, San Diego United Holdings Group,
13 LLC and California Cannabis Group, and settled with Keith Henderson at trial.

14 The motion does not dispute that Plaintiff San Diego Patients Cooperative Corp.
15 recovered nothing.

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17 **III. Memorandum Of Costs Item # 1 (Filing and motion fees)(\$1,465)**

18 The motion acknowledges that \$435 was incurred by Razuki as a prevailing Defendant
19 for first paper fees. He also paid the filing/motion fees for the other Razuki/Henderson
20 Defendants. These were necessary and reasonable costs incurred by the prevailing party and
21 charged by the Court. *See*, Jaffe Declaration.
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- 1 **IV. Memorandum Of Costs Item #4 (Deposition Costs)(\$8,721.54)**
2 **Memorandum Of Costs Item #5 (Service Of Process)(\$549.75)**
3 **Memorandum Of Costs Item # 11 (Photocopies Of Exhibits)(\$1,225)**
4 **Memorandum Of Costs Item # 12 (Court Reporter Fees)(\$6,700)**
5 **Memorandum Of Costs Item #14 (Fees For Electronic Filing)(\$875)**
6 **Memorandum Of Costs Item #16 (Courtesy Copies To Court/**
7 **Mediation)(\$2,340)**

8 The only challenge in the motion to these costs is Plaintiffs’ argument regarding “unity of
9 interest” of parties for purposes of costs, which has been expressly rejected by the 4th District
10 Court of Appeal. *See, Charton v. Harkey*, 247 Cal.App.4th 730, 741-742 (Cal. Ct. App. 2016)(A
11 prevailing party is entitled to recover costs as a matter of right even if that party joined with non-
12 prevailing parties).

13 All of the requested costs were reasonably incurred by Razuki who prevailed, and should
14 be awarded. *See*, Jaffe Declaration.

15 **V. Conclusion**

16 Defendants Razuki Investments, LLC and Salam Razuki request the Court deny the
17 motion to tax/strike costs, and for such other and further relief as the Court deems proper.

18 Dated: May 17, 2024

LAW OFFICES OF DOUGLAS JAFFE

19
20 s/ Douglas Jaffe _____
21 Douglas Jaffe

DECLARATION OF DOUGLAS JAFFE

Douglas Jaffe declares as follows:

1. I am the attorney of record for Defendants Razuki Investments, LLC and Salam Razuki. I have personal knowledge of the facts set forth herein and if called to testify I could and would competently testify thereto.

2. For this motion, Plaintiffs has done little more than recite the amounts claimed by Salam Razuki. They have undertaken no action to show the unreasonableness of the costs because they cannot. Salam Razuki was forced to incur numerous recoverable costs because of Plaintiffs’ complaint against him, **for which Plaintiffs lost as against Razuki and Plaintiff San Diego Patients Cooperative Corp. recovered nothing.**

3. Salam Razuki (“Razuki”) paid the costs claimed.

4. The motion does not dispute that Razuki prevailed.

5. Razuki should be entitled to the costs he incurred since he prevailed (even if that party joined with non-prevailing parties).

6. The motion does not address that Plaintiffs sued Defendants Razuki Investments, LLC, Salam Razuki, Keith Henderson, Ninus Malan, Balboa Ave Cooperative, American Lending and Holdings, LLC, San Diego United Holdings Group, LLC and California Cannabis Group.

7. The motion also does not address that Plaintiffs were completely unsuccessful (including non-suit motions and dismissed parties) as to Defendants Salam Razuki, Ninus Malan, Balboa Ave Cooperative, American Lending and Holdings, LLC, San Diego United Holdings Group, LLC and California Cannabis Group, and settled with Keith Henderson at trial.

8. The motion does not dispute that Plaintiff San Diego Patients Cooperative Corp. recovered nothing.

9. The motion acknowledges that \$435 was incurred by Razuki as a prevailing Defendant for first paper fees. He also paid the filing/motion fees for the other

1 Razuki/Henderson Defendants. These were necessary and reasonable costs incurred by the
2 prevailing party and charged by the Court. *See*, Jaffe Declaration.

3 10. All of the requested costs were reasonably incurred by Razuki who prevailed, and
4 should be awarded. *See*, Jaffe Declaration.

5 11. Defendants Razuki Investments, LLC and Salam Razuki request the Court deny
6 the motion to tax/strike costs, and for such other and further relief as the Court deems proper.

7
8 I declare under penalty of perjury under the laws of the State of California that the
9 foregoing is true and correct.

10 Executed on May 17, 2024 in San Diego, California.

11
12 s/ Douglas Jaffe
13 DOUGLAS JAFFE