

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL**

MINUTE ORDER

DATE: 05/24/2024

TIME: 09:00:00 AM

DEPT: C-67

JUDICIAL OFFICER PRESIDING: Michael T. Smyth

CLERK: Herlinda Chavarin

REPORTER/ERM: Lezlie Hamrick-Smith CSR# 6702

BAILIFF/COURT ATTENDANT: M. Micone

CASE NO: **37-2017-00020661-CU-CO-CTL** CASE INIT.DATE: 06/07/2017

CASE TITLE: **San Diego Patients Cooperative Corporation Inc vs Razuki Investments LLC**

[IMAGED]

CASE CATEGORY: Civil - Unlimited CASE TYPE: Contract - Other

EVENT TYPE: Motion Hearing (Civil)

MOVING PARTY: Salam Razuki, Razuki Investments LLC

CAUSAL DOCUMENT/DATE FILED: Motion to Strike or Tax Costs, 03/19/2024

APPEARANCES

Allan Claybon, counsel, present for Respondent on Appeal, Plaintiff(s) via remote video conference.

Douglas Jaffe, counsel, present for Defendant, Respondent on Appeal, Appellant(s).

The Court hears oral argument and CONFIRMS the tentative ruling as follows:

Defendants Razuki Investments, LLC and Salam Razuki's Motion to Tax and/or Strike is **GRANTED** only as to the \$1,197.50 requested for service of process. The motion is **DENIED** in all other respects and costs are awarded in the amount of \$27,956.27. The court notes, however, that the costs are only recoverable from Defendant Razuki Investments, LLC.

As a preliminary matter, the court finds that the motion was timely filed and served on March 19, 2024, two court days after March 15, 2024. (See Code Civ. Proc., § 1010.6(a)(3) [extending time by two court days for electronic service].)

Defendants argue that the costs should be taxed or stricken because Plaintiffs are not prevailing parties. Defendants point out that only one of the Plaintiffs was successful as to one of the Defendants. While true, Plaintiff Harcourt was unquestionably the prevailing party against Defendant Razuki Investments, LLC, obtaining a judgment for \$2,500,000.00. The court will review the asserted costs to determine their reasonableness.

Recoverable costs must be both reasonable in the amount and reasonably necessary to the conduct of the litigation. (See Code Civ. Proc., §§ 1033.5(c)(2), (3); see also *Ladas v. California State Auto Ass'n*, (1993) 19 Cal.App.4th 761, 775-776.) Generally, Code of Civil Procedure section 1033.5 enumerates recoverable costs but items not specifically prohibited may be deemed recoverable at the discretion of the court if "reasonably necessary to the conduct of the litigation rather than merely convenient or beneficial to its preparation." (Code Civ. Proc., § 1033.5(c)(2).)

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Once costs claimed are challenged via motion, sufficient and reliable documentation must be submitted to sustain the claiming party's burden. (*Jones v. Dumrichob* (1998) 63 Cal.App.4th 1258, 1266.) "A court has the obligation to ensure that only costs that are necessary and reasonable in amount are allowed to a prevailing party." (*Serrano v. Stefan Merli Plastering Co., Inc.* (2008) 162 Cal.4th 1014, 1039.) The court is authorized to tax or strike costs which it concludes are not reasonably necessary. (*Perko's Entertainment, Inc. v. RRNS Enterprises* (1992) 4 Cal.App.4th 238, 245.)

Plaintiffs' memo of costs requests a total of \$29,153.77. (See ROA 787.) Defendants contest all categories of requested costs. The court finds that the Plaintiff has sufficiently substantiated all of its requested costs. (ROA 787 [memo of costs], 823 [Claybon Declaration and attached invoices].) As explained below, even considering that only Plaintiff Harcourt was successful against Defendant Razuki Investments, LLC, the court also finds that the costs were reasonably incurred.

First, the court finds that the initial filing fee of \$435, jury fees of \$2,355.78, ordinary witness fees of \$215.75, and court transcript cost of \$222.75, are unquestionably reimbursable.

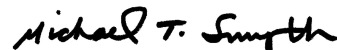
Second, deposition costs, including transcribing and video recording, are recoverable. (Code Civi. Proc., § 1033.5(a)(3).) Plaintiff has substantiated its costs and Defendant has not provided any reason why there should have been fewer depositions. \$16,151.99 in deposition costs is reasonable.

Third, service of process fees of \$1,197.50 to serve Razuki Investments, LLC is unreasonable, however. As stated by Defendant, this Defendant had a registered agent for service of process during the litigation and Plaintiff's service appears to have been on Razuki himself. Plaintiff has not rebutted this point. Because no recovery was had from Razuki, this cost is not recoverable. The costs are taxed by \$1,197.50.

Third, the exhibit costs are recoverable. Plaintiff is requesting \$1,967.34 for court ordered exhibit binders and \$4,941.00 for electronic presentation of exhibits for a total of \$6,908.34. Although photocopy costs are generally prohibited, they may be recovered for exhibits that "were reasonably helpful to aid the trier of fact." (Code Civ. Proc., § 1033.5(a)(13).) After reviewing the declaration of counsel and the record in this case, the court is satisfied that at least some of the models, enlargements, and photocopies were reasonably helpful to aid the court and the trier of fact. Moreover, the court exercises its discretion to grant fees for any unused exhibits. (Code Civ. Proc., § 1033.5(c)(2), (c)(4); see also *Segal v. ASICS America Corp.* (2022) 12 Cal.5th 651, 668 [costs for unused exhibits not categorically available under Section 1033.5(a)(13) but may be available in the trial court's discretion under Section 1033.5(c)(4)].)

Fourth, mediation costs of \$1,366.66 are recoverable. (*Berkeley Cement, Inc. v. Regents of University of California* (2019) 30 Cal. App. 5th 1133, 242. 257-58.) Defendant has not shown why or how mediation costs would have been less had the only Defendant been Razuki Investments, LLC. Accordingly, the motion is denied on these costs.

IT IS SO ORDERED:



Judge Michael T. Smyth