

**TENTATIVE RULING**

**Judge Denise deBellefeuille**  
**Department 6 SB-Anacapa**  
**1100 Anacapa Street**  
**P.O. Box 21107**  
**Santa Barbara, CA 93121-1107**

**CIVIL LAW & MOTION**

<b>Alma Alfaro et al vs Nomad Village Inc et al</b>	
<b>Case No:</b>	1264917
<b>Hearing Date:</b>	Thu Nov 12, 2009 9:30

**Nature of Proceedings:** Motion: Attorney Fees

The court grants the motion of plaintiffs for attorney fees and awards fees in the amount of \$340,039. The court taxes plaintiffs' costs in the amount of \$51,827.07, leaving allowable costs of \$25,831.07.

55 current and former residents of a mobile home park brought this action against defendant Nomad Village, Inc., which managed and operated the park under a lease that expired on July 31, 2008. Plaintiffs allege that defendants failed to maintain park facilities in good working order, including the electrical system and sewer system, which allegedly backed-up and spilled sewage in the park. Plaintiffs sued for 1) nuisance, 2) breach of contract, 3) negligence, 4) intentional interference with property rights, 5) breach of duty of good faith and fair dealing, 6) negligence per se, 7) unfair business practices, 8) breach of warranty of habitability, 9) breach of covenant of quiet enjoyment, and 10) declaratory and injunctive relief. Ten plaintiffs settled prior to commencement of trial. Trial commenced on August 13, 2009 with consideration of motions in limine. A jury was impaneled on August 19 and the remaining parties reached a settlement on August 24, 2009.

Plaintiffs seek \$2,509,180 in attorney fees and \$77,658.14 in costs. Plaintiffs claim the fees are recoverable pursuant to Civil Code § 798.85 and the rental agreements of plaintiffs. They seek compensation of counsel for 4,937.6 hrs at rates ranging from \$225-\$350/hr for attorneys and \$150/hr for paralegals. Counsel justifies the large amount of work based on the Mobilehome Residency Law requiring a detailed review and presentation because the statutory scheme is largely devoid of appellate commentary; the electrical and sewer systems are large and numerous components had changed over the years the systems had been failing, and the water system is large, requiring extensive investigation and analysis; and the sheer size of the case, including multiple plaintiffs with disparate claims. They seek a 2.0 multiplier of the lodestar fee because of the complexity of the case; the

case was taken on a contingency basis, counsel was substantially prevented from other work; and delay in payment in the case filed nearly two years ago. In the cost memorandum, plaintiffs seek costs that are not listed as recoverable under CCP § 1033.5 but ask the court to allow them as reasonably necessary expenses pursuant to CCP § 1033.5(c)(4).

Defendant Nomad Village, Inc. argues that the fees are unreasonable, reflecting padded or inflated fees in a relatively simple matter. The firm specializes in mobile home “failure to maintain” cases and advertised that it was involved in 15 active cases at the same time as this case was pending. Plaintiffs’ plumbing expert had been involved at least 20 times in working for plaintiffs’ law firm. Defendant argues that 40% of total time was charged at a paralegal rate for clerical work (e.g., opening, reading and forwarding e-mail; typing interrogatory answers; and organizing files); block billing; work on another case; work pre-dated the complaint by as much as 19 months; and fees should be reduced for the 10 (18%) of plaintiffs who settled early and agreed to bear their own costs and fees. Defendant contends that plaintiffs have not demonstrated that a multiplier of the lodestar fee is warranted. As for costs, defendant objects to overnight delivery fees as part of filing fees; excessive deposition travel, lodging, meal and miscellaneous costs; service of process fees for four dismissed defendants and unspecified rush fees, check charges, copying charges, “basic charges” and preparation of declarations; models, blow-ups, etc... were not used at trial because there was no trial; parties agreed to share costs of mediation; photocopying charges, expert deposition costs, trial preparation costs, and travel not associated with depositions are not recoverable; and all costs should be reduced 18% for the ten early settling plaintiffs.

Plaintiffs point out that defendant’s expert on fee review, Brand Cooper, concludes that the fees charged were not reasonable but he has no experience in prosecuting this type of litigation. For example, the mock trial was conducted by Ken Turek, a partner with the firm representing plaintiffs and an instructor at the Gerry Spence Trial College, where he teaches mock trial as a tool to gain insights to help try the case. He testifies that the mock trial in this case was economically conducted. Plaintiffs argue that pre-filing work was not solicitation but preparation. Plaintiffs maintain that multiple attorneys are necessary in this litigation and even defendant had two lawyers at most depositions, most hearings, nearly every settlement conference and at trial. Plaintiffs point out that Cooper criticizes the use of a distant law firm but does not identify a firm closer to Santa Barbara who would take the case and/or charge less. Counsel says his hourly clients pay travel time. Plaintiffs contend that production and editing by paralegals are not clerical tasks, but rather involve professional work, such as indexing evidence, which includes selecting evidentiary fields for later use. Plaintiffs’ counsel complains that defendant uses the firm’s high success rate against it. The success rate is not a reason to spend less time on a case, rather the success rate is a result of the work put into cases. Plaintiffs argue that California courts reject the block billing argument that defendant makes. Plaintiffs concede that the complaint in this case is similar to others because “all mobile home parks go bad in substantially similar ways.” Plaintiffs argue that the “results obtained” factor in fee enhancement is neutral in light of the confidential settlement (insisted upon by defendant) and it is inappropriate for defendant to suggest the relative size of the demand made at mediation. The comparison of the settlement to the amount demanded is not appropriate because the settlement figure does not include the eventual attorney fee and costs award.

The 18% across-the-board reduction suggested by defendant because of early settling plaintiffs who agreed to bear their own costs and fees is not appropriate because the vast majority of fees and costs were unrelated to any particular plaintiff. With respect to costs, plaintiffs maintain that flying to Santa Barbara from San Diego was often cheaper, especially when direct flights were available; counsel did not stay in luxury hotels; court has discretion to award costs of trial exhibits where the case settled at trial; gas was for rental cars that had to be returned full; extra days at hotels reflect combining travel to do other case work.

There is no dispute that plaintiffs are entitled to attorney fees as prevailing parties. The only question is how much.

Any award of fees pursuant to the agreement is governed by Civil Code § 1717, which provides for an award of reasonable fees. “Although Code of Civil Procedure section 1021 gives individuals a rather broad right to ‘contract out’ of the American rule by executing such an agreement, these arrangements are subject to the restrictions and conditions of section 1717 in cases to which that provision applies.” *Trope v. Katz* (1995) 11 Cal.4th 274, 279. Similarly, Civil Code § 798.85 provides for “reasonable attorney’s fees and costs.” The court will review the motion to determine reasonable fees for plaintiff’s counsel’s work in the case.

The fee request inquiry begins with the "lodestar," i.e., the number of hours reasonably expended multiplied by the reasonable hourly rate. *PLCM Group v. Drexler* (2000) 22 Cal.4th 1084, 1095. “The value of legal services performed in a case is a matter in which the trial court has its own expertise. [Citation] The trial court may make its own determination of the value of the services contrary to, or without the necessity for, expert testimony.” *Id.* at 1096. Items on plaintiff’s counsel’s “verified cost bill are prima facie evidence the costs, expenses and services listed were necessarily incurred, and when they are properly challenged the burden of proof shifts to the party claiming them as costs. However, our review is not limited to a determination of the sufficiency of [the] motion to rebut the presumption. A trial judge ‘is entitled to take all of the circumstances [of the case] into account and is not bound by the itemization claimed in the attorney’s affidavit.’” *Hadley v. Krepel* (1985) 167 Cal.App.3d 677, 682-683 [citations omitted]. The circumstances the court takes into consideration include “the nature of the litigation, its difficulty, the amount involved, the skill required and the skill employed in handling the litigation, the attention given, the success of the attorney’s efforts, [his/her] learning, [his/her] age, and [his/her] experience in the particular type of work demanded; the intricacies and importance of the litigation, the labor and the necessity for skilled legal training and ability in trying the cause, and the time consumed.” *Clayton Dev. Co. v. Falvey* (1988) 206 Cal.App.3d 438, 447. The party seeking fees must offer evidence that is “clear proof of the crucial factors: i.e., the time reasonably spent by each attorney and his ‘reasonable hourly compensation.’” *Mandel v. Lackner* (1979) 92 Cal.App.3d 747, 761.

The court’s task is complicated by the fact that the case settled and the settlement is confidential. The court has no trial experience informing the attorney fee decision nor is there an amount of the settlement to guide the court in any proportionality analysis.

1. “Block Billing”: “Inadequate documentation includes the practice of grouping, or ‘lumping,’ several tasks together under a single entry, without specifying the amount of time spent on

each particular task,” making it difficult to make an accurate determination of the reasonableness of time expended. *Rucker v. Sheehy Alexandria, Inc.*, 255 F.Supp.2d 562, 564 n3 (E.D. Va. 2003). Plaintiffs say that California courts have rejected the “block billing” argument in federal cases, citing *Nightingale v. Hyundai Motor America* (1994) 31 Cal.App.4th 99. But that is not a fair reading of that case. The court stated: “While the billing statements do not break down the time spent on each task performed, the time slips which were also submitted to the court do provide this information. Even if the time slips had not been before the court, certainly the trial court is in a position to determine whether the tasks described in each month's statement reasonably required the total amount of time billed each month.” *Id.* at 103. Here the court does not have timeslips that identify the time spent on multiple tasks listed together and the court is not in a position to divine what time was spent on multiple tasks. Indeed, the “Legalmaster MIRC for Transactions” information submitted by plaintiffs is substantially opaque. The handwritten statements provide detail, but often contain multiple tasks lumped together. E.g.,

2/9/09, Linda Reich: “tc from County re check for subpoenaed docs; work on Reply to Opp to Motion to Compel Compliance; review Oppositions; conference with HEH re power company records and objection to inspections, review Stewart [?]; 3.2 hrs

3/27/09, David Semelsberger: “Confer with LR re doctor’s depositions & meeting re trial issues; review jury instruction for trial; research same; 2.2 hrs

While plaintiffs object to Brand Cooper’s credentials to offer opinions, they do not challenge his substantial factual computations and analysis. He has calculated that 2,798.7 hrs of the total 4,937.6 hours in the case were “block-billed.” That is nearly 57% of the time entries. The court will apply an across-the board 15% reduction in requested fees (after other deductions) based on this impediment to reasonableness review.

2. Pre-Litigation services: Some pre-litigation services, such as investigation and complaint drafting are reasonable and necessary. Indeed, CCP § 128.7(b)(3) compels counsel to make a reasonable inquiry and certify that the allegations and factual contentions have evidentiary support or are likely to have evidentiary support after further investigation or discovery. Cooper says some of these services are client “solicitation.” Henry Heater, counsel for plaintiffs takes umbrage at this suggestion and says that his firm does not need to solicit clients, rather it turns down nine cases for every one it takes. But he confirms that “most cases are won at the time of case selection” [Reply 3:17] and states: “In plaintiffs’ contingency fee work, case selection is the key to success.” [Heater Dec. ¶ 6] The court does not doubt these assertions. But they support the notion that many pre-litigation services were designed to inform the business decision of counsel whether to take the case. The case is not successful because counsel accepted it, counsel is successful because he accepted a winning case. Cooper attributes 237.4 hours to what he calls “client solicitation.” Whether it is client solicitation or business decision about the likely success of the case, the time is not compensable to a prevailing party. The tasks include drafting fee agreements and “rejection letters.” Here, plaintiffs have not presented clear proof of time reasonably spent in this category and the court will disallow \$36,600.

Plaintiffs’ counsel spent 124.9 hours preparing and amending the complaint for total fees of \$40,220. Defendant contends this is essentially a form complaint, substantially identical to

complaints plaintiffs' lawyers filed in other cases. Plaintiffs' counsel says this is just a reflection of the fact that "all mobile home parks go bad in substantially similar ways." [Reply 8:12-13] This cavalier assertion does not explain why the complaint in this case refers to the accessibility to dumpsters in a park where trash is picked up at residences or the removal of a playground in a park that has always been a "senior" park. The complaint has a cut-and-paste quality to it. This is not a criticism of the complaint so much as an indication that it is not a 125 hour complaint. Also, the court found many of the pre-litigation services to be clerical in nature, e.g., entries for paralegal Barajas on October 31, 2007 "worked on verifying names for the complaint" (2.5 hrs) and on November 6, 2007, "worked on updating Alpha list" (2.0 hrs). The court will reduce the requested fee by \$35,220.

3. Work on other case: Defendant identified 79.9 hours of time spent on case #1168909, *Jerrie Taylor v. Nomad Village, Inc.* or that had no entry or illegible entries. Plaintiffs do not respond to this evidence at all. The court will reduce the amount of fees \$23,155 for these entries.

4. Case Status Meetings: The court does not subscribe to defendant's assertion that lawyers should not be compensated for meeting with each other about a case. Meetings can be very productive in forming strategy and resolving issues. However, plaintiff's counsel has a practice of routinely holding weekly "case status meetings" or "case management meetings" in which several participants meet about several cases, often only for one-tenth of an hour each. These do not seem to be strategizing or problem-solving sessions but just brief reports on the status of the case that do not move the case forward. The court will deduct \$21,000 for these meetings.

5. Deposition Scheduling: Cooper identified 121.45 of time and \$21,485 in fees devoted to deposition scheduling. This task does not require professional services. Again, plaintiff do not respond to this assertion the court will reduce the requested fees in this amount.

6. No Description/Illegible Time Entries: 52.15 hours of time entries contained no description or were illegible. These total \$11,682.50.

7. Clerical Tasks: Cooper identified 218.2 hours of time spend bates stamping, organizing files, calendaring dates, scanning and indexing documents that are not professional services. Plaintiffs point out that indexing documents is a valuable tool that enables attorneys to find documents later. But plaintiffs make no effort to carry their burden to show how much of the time falls into this category. The other tasks described reflect clerical work. And the court found more examples. Among the 15.2 hours she billed on May 19, 2008, paralegal Barajas charged for "Troubleshoot printing problems." On the same day, paralegal Introna actually charged to talk to Barajas on the phone "re connection to printer." The court also observes that attorney Reich charged to talk to the court clerk regarding a check. [2/9/09 entry discussed above] The court will reduce the requested fees by \$36,000 for these entries.

8. Vague and Ambiguous Entries: Several entries simply say a general category of work without any description of what the attorney is doing. "Work on discovery" is an example. There is no indication what documents were reviewed or whether it is a response to

discovery, propounding discovery, the type of discovery, or plaintiff involved. “Discovery issues” and “review docs” are other examples. The court cannot make a reasonableness assessment of such entries. Cooper has analyzed these entries and determined they consist of 624.10 hours or \$158,872.50 in fees. The court will reduce the requested fees by this amount.

The court is not as concerned about the entries for “trial preparation.” Cooper says these entries total 952.80 hours and charges of \$228,975. In the run-up to trial, entire days will be devoted to trial preparation and it is not reasonable to require counsel to break the time down into individual tasks. Still, the trial preparation in the run-up to trial in April, before the matter was continued to May and later to August does not seem to have reduced the preparation for trial in August. Of the 135.3 hours the court identified as trial preparation in April, the court will reduce the August prep by 100 hours or \$35,000 (partners only). The court will not reduce the fees for attorney time in spent the “mock trial” preparation tool.

9. Travel Time: Defendants object to 434.70 hours and \$125,805.00 in travel time billings. Plaintiffs’ counsel says his hourly clients pay for his travel time. There appears to be no other firm that was able, available and willing to take this case on a contingency basis. The court will not second guess the number of times counsel and/or paralegals had to come to Santa Barbara to prepare the case.

However, not all travel seems necessary as there were often multiple individuals in Santa Barbara and there was tag-teaming where one lawyer would arrive when another was leaving, requiring an extra trip. This may have served convenience or personal needs of the attorneys. But for compensation purposes it is not reasonable and necessary. The court will reduce the fees 20% for these inefficiencies, or \$25,161.

Plaintiffs’ counsel says that travel time is compensated at full hourly rates, citing *Davis v. City and County of San Francisco*, 976 F.2d 1536, 1543 (9th Cir. 1992). But that court, while finding that the time was compensable, did not address the applicable hourly rate. Indeed, other courts have reduced the hourly rate for time spent in travel. *Watkins v. Fordice*, 7 F.3d 453, 459 (5th Cir. 1993). Courts retain the authority to ensure that excessive fees are not assessed against the nonprevailing party. *Cruz v. Local Union No. 3 of the IBEW*, 34 F.3d 1148, 1161 (2d Cir. 1994) (citing with approval a court that compensated travel time at 50% of the hourly rate). “[I]t is obvious that ‘the time spent in transit may have been beneficial, but it probably was not as productive as time at the office or in court.’” *Jennette v. New York*, 800 F. Supp. 1165, 1170 (S.D.N.Y. 1992). The court will reduce the compensation in this respect another 50%, for a total reduction of \$50,322, leaving \$50,322 of travel time compensable.

10. General Reduction: Defendant and the court have had to work to analyze the reasonableness of fees in the application. And the court is not certain it has found all unreasonable billings in the 10½ inch stack of documentation submitted with the motion. The documentation is not summarized by attorney and categories of work, making the review difficult and laborious. All of the detailed entries are handwritten. “A fee request that appears unreasonably inflated is a special circumstance permitting the trial court to reduce the award or deny one altogether.” *Serrano v. Unruh* (1982) 32 Cal.3d 621, 635. The court can “reasonably conclude the inflated, noncredible, often vaguely documented hours

claimed by counsel” precludes turning a contingent fee arrangement into a windfall. *Christian Research Institute v. Alnor* (2008) 165 Cal.App.4th 1315, 1330.

The dollar amount reductions reflected above total \$454,498, leaving \$800,092 in the lodestar amount. Reducing that amount by 15% across-the-board for block billing, the court takes another \$120,014 from the requested amount, leaving. \$680,078. In light of the gross inflation of fees, the court will reduce the fee by another 50%, for a total fee of \$340,039.

**Multiplier:** Plaintiffs want the court to apply a 2.0 multiplier to enhance the lodestar fee. The “court need not consider a multiplier when presented with an inflated, unreasonable fee request.” *Id.* The court has already reduced the award by half because of the inflated, unreasonable request. The court will not add that amount back in through a multiplier. Of the applicable factors in *Serrano v. Priest* (1977) 20 Cal.3d 25, 49, the court does not find the issues in the case were novelty or difficult. Plaintiffs’ counsel has made no showing (other than the sheer volume of inflated hours) indicating that the litigation precluded other employment by the attorneys. Indeed, defendant’s evidence shows the firm was involved in several other cases at the time this case went to trial. Although the fee was contingent, this alone does not justify a multiplier, particularly “from the point of view of eventual victory on the merits and the point of view of establishing eligibility for an award.” *Id.* Plaintiffs bear the burden of proof in this regard and they have failed to sustain it. *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1139. The court will not enhance the determined lodestar fee.

**Costs:** Preliminarily, the court observes that the cost issue arises in an unusual circumstance. There is no judgment or dismissal in this case. Nevertheless, plaintiffs filed a memorandum of costs. Defendant did not move to tax or strike the memorandum. However, the parties have proceeded as if the opposition to costs is sufficient to put the cost issues before the court. Since this appears to be a result of the parties’ settlement, the court will proceed to determine the cost issues.

The court will first address whether plaintiffs are entitled to recover, as part of the attorney fee award, costs that are not recoverable under CCP § 1033.5. Plaintiffs cite *Bussey v. Affleck* (1990) 225 Cal.App.3d 1162. That court concluded that “where a contract provides for payment of costs and attorney’s fees, the court may allow disbursements of counsel as attorney fees under section 1033.5, subdivision (a)(10), if they represent expenses ordinarily billed to a client and are not included in the overhead component of counsel’s hourly rate.” *Id.* at 1166. But the weight of authority appears to hold contrary – that expert witness fees and various other litigation expenses not allowed by statute are not recoverable as costs even when a contract provides for the recovery of attorney fees and costs by the prevailing party. *Ripley v. Pappadopoulos* (1994) 23 Cal.App.4th 1616, 1626. See also *Hsu v. Semiconductor Systems, Inc.* (2005) 126 Cal.App.4th 1330, 1342; *Jones v. Union Bank of California* (2005) 127 Cal.App.4th 542, 551 (2d Dist., Div. 6). Out of the \$77,658.14 in claimed costs, the court will allow only those allowable pursuant to CCP § 1033.5. Below is an analysis of the challenged costs:

1) **Filing and Motion Fees:** The court will not reduce the filing fees for two unsuccessful motions in the case and will allow the full \$540. The \$509.15 for an attorney service taking the documents to court is another matter. “Where costs are not expressly allowed by the statute, the burden is on the party claiming the costs to show that the charges were

reasonable and necessary.” *Foothill-De Anza Community College Dist. v. Emerich* (2007) 158 Cal.App.4th 11, 29. CCP § 1033.5(a)(1) says nothing about the costs of getting the documents to court, which can be done by mail or fax much more cheaply than an attorney service. Plaintiffs have not shown that the attorney service charges are reasonable and necessary. The court will allow only \$540 in this category.

2) Deposition Costs: Deposition costs total \$23,961.92, consisting of transcription costs, videotape costs and travel costs. Defendant does not contest the transcription and videotaping costs but claims the travel costs totaling \$19,257.27 are unreasonable. CCP § 1033.5(a)(2) permits recovery of travel expenses to attend depositions. Defendant suggests that nearly \$8,000 in airfare, an additional \$3,610 in rental car charges and \$1,125 in mileage associated with 18 trips to and from Santa Barbara for depositions is unreasonable. Defendant says the airfare is unreasonable because it only takes three hours to drive each way to and from San Diego. (Defendant says the distance is 220 miles. An average speed of over 70 mph on a trip through the greater Los Angeles metropolitan area strikes the court as ambitious, dangerous and illegal.) Air travel is not per se unreasonable and there are economies of attorney time when one can use the time for work and not bill for merely driving. One ticket for \$1,508.40 reflects poor planning and the court will disallow \$1,000. Fax costs of \$15 and copy costs at court of \$50 appear unrelated to the deposition and copying fax charges are not generally recoverable. The court will deduct \$65. However, excess baggage fees, last minute flight changes, parking, tolls and gasoline (for rental cars) are not unreasonable. Rental car charges of \$3,438.57 for trips when attorneys flew appear reasonable and necessary as the alternative would be multiple cab fares from airport to hotel and hotel to deposition venue. Defendant says there were 32 nights of hotel stays associated with depositions in Santa Barbara. Defendant wants the court to limit room rates but they vary. With the exception of one two-night stay at a Doubletree hotel, the hotels were not expensive. The court will deduct \$200 for that stay. Defendant says that attorneys stayed extra nights after depositions were completed early in the day. Plaintiffs’ counsel responds that they often stayed over for other tasks. That may be a reasonable decision, but it does not make the extra hotel charge a deposition cost. However, Defendant does not quantify these charges and the court could only locate a receipt for one of the dates listed by defendant, totaling \$162.68. (Plaintiffs have made the court’s task difficult by failing to bate stamp their 10½ inch tall stack of documents.) The court will deduct \$162.68. The court will also deduct \$1,476.55 for meals. Meal expenses cannot be justified “as ‘necessary to the conduct of the litigation’ since attorneys have to eat, whether they are conducting litigation or not.” *Ladas v. California State Auto. Assn.* (1993) 19 Cal.App.4th 761, 775.

3. Service of Process Costs: Service fees totaling \$122.50 are for service on four individuals who were dismissed from the case and these are not properly charged to this defendant. Nor is there any justification for \$60 in rush fees or \$46.50 in “check charges.” Plaintiffs do not explain “basic charges” of \$454.81 or copying charges of \$1,190. Preparation of declarations appears to be part of the service of process charges as proofs of service must be filed.

4. Models, Blowups, Exhibits: There was no trial and the costs of \$11,293.42 for exhibits not used at trial are not recoverable. *Ladas v. California State Auto. Assn.*, supra, 19 Cal.App.4th at 775 (case dismissed on the eve of trial after motions in limine).

5. Mediation Costs: Plaintiffs seek \$2,712.50 for its share of the mediator's fees and costs and \$264.42 for preparation and copying of their mediation booklet. These are not costs enumerated in CCP § 1033.5(a). Mediation costs were allowed under the court's discretionary authority in CCP § 1033.5(c)(4) in *Gibson v. Bobroff* (1996) 49 Cal.App.4th 1202, 1207-1208, but that was court-ordered mediation. The court will disallow \$2,976.92.

6. Copying Costs: These charges of \$4,022.50 are disallowed pursuant to CCP § 1033.5(b)(3).

7. Expert Deposition Fees: \$567.50 in fees paid to defendant's expert are not fees of a court-ordered expert and, therefore, are not recoverable. CCP § 1033.5(b)(1).

8. Computerized Legal Research Costs: CCP § 1033.5(b)(2) precludes recovery of investigation expenses and, therefore, fees for computerized legal research are not a recoverable cost. *Ladas v. California State Auto. Assn.*, supra, 19 Cal.App.4th at 776. Another court has held that "reasonable charges for computerized research may be recovered as 'attorney's fees.'" *Plumbers & Steamfitters, Local 290 v. Duncan* (2007) 157 Cal.App.4th 1083, 1100. However, as discussed above, costs are not allowable as attorney fees separate from CCP § 1033.5. Besides, most research software is available without charges for individual searches and is part of a firm's overhead. Breaking down the time the software is used and charging for it makes computer research software a profit center rather than a tool of the trade. The court will disallow the \$4,255.51 in charges for computerized legal research.

9. Trial Preparation Costs: Plaintiffs seek \$12,044.24 in trial preparation costs, consisting of the costs of meals, hotel stays, car rental, mock trial, court interpreters not used at trial, office rental, cargo van rental and gasoline. The court does not dispute that these charges may have been helpful in preparing plaintiffs' case. But "[a]llowable costs shall be reasonably necessary to the conduct of the litigation rather than merely convenient or beneficial to its preparation." CCP § 1033.5(c)(2). Once a party properly objects to costs "they are put in issue and the burden of proof is on the party claiming them as costs." *Ladas v. California State Auto. Assn.*, supra, 19 Cal.App.4th at 774. Plaintiffs have not sustained their burden with respect to these costs and the court will disallow them.

10. Non-Deposition Related Travel: Plaintiffs seek travel expenses (other than for depositions) for parking, cab fares, mileage, airfare, lodging and meals. While some of these costs may have been reasonable and necessary, plaintiffs have not made a specific showing as is their burden. The court will disallow this sum of \$11,379.79 in costs.

11. Costs Associated with Dismissed Defendants: Again, defendant asks the court to make an across-the-board 18% reduction for the ten settling plaintiffs who agreed to bear their own costs. However, there is no showing that costs would have been reduced in that amount had these plaintiffs not been in the case. None of the ten settling plaintiffs were deposed and they did not pay separate appearance fees. Defendant does not identify any particular cost that is solely associated with any particular settling plaintiff(s). The court will make no reduction in costs in this regard.

The court will tax \$51,827.07 in costs, leaving allowable costs of \$25,831.07.