

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA**

**RG18930929: Oakland Bulk And Oversized Terminal, LLC VS City of Oakland
04/03/2024 Hearing on Motion to Tax Costs filed by City of Oakland (Defendant) in
Department 21**

Tentative Ruling - 04/02/2024 Noël Wise

Parties to appear to discuss the following questions:

General Question

Question: After the opposing party properly objected to a claimed cost and the moving party documentation in support of that cost, but the documentation does not allow the court to distinguish between recoverable and nonrecoverable costs, what should the court do?

Ground Lease and Otherwise Non-recoverable Costs

Question: What is the best authority that parties can or cannot expand the scope of allowable costs beyond those delineated in section 1033.5 of the Code of Civil Procedure by contract?

Question: Is there any published authority from a California appellate court that approved or disapproved of the proposition that “where sophisticated parties knowingly and intentionally negotiate a broader standard into their contract—and particularly where, as here, that standard specifically includes ‘witness and expert fees’—the intent of the parties should be upheld by the court,” as stated in Thrifty Payless, Inc. v. Mariners Mile Gateway, LLC (2010) 185 Cal. App. 4th 1050, 1066? If no published authority, how much weight should the Court give the Fourth Appellate District’s legal statement?

Taking, Video Recording, and Transcribing Necessary Depositions

Question: What is the best authority that a court can or cannot tax deposition costs associated with an expert who testified as an expert at trial but whose testimony was found unhelpful and unusable by the trier of fact?

Service of Process

Question: What is the best authority that a court can or cannot tax costs associated with service of process of a deposition subpoena where the subpoenaing party withdrew the subpoena before the deposition occurred?

Transcripts of Court Proceedings Ordered by the Court and Court Reporter Fees

Question: What is the best authority that a court can or cannot tax costs of pretrial transcripts that were not ordered by the Court but the plaintiff claimed to have been helpful to resolve disputes and objections present at trial?

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Models, Enlargements, and Photocopies of Exhibits

Question: What is the best authority that a court can or cannot tax costs of exhibits where the invoices reflect personnel costs and fees for photocopying the exhibits and the costs of preparing potential trial exhibits?

Fees for Electronic Filing or Service

Question: What is the best authority that Local Rule 3.27 is or is not a court order requiring represented party to use electronic filing?

Other Costs

Question: What is the best authority that a court can or cannot tax costs associated with non-local counsel and staff that were not present in the courtroom while court was in session for trial?

Food

Question: What is the best authority that a court can or cannot tax costs associated with food, such as lunch meals, on days when the court was in session for trial?

Non-local Counsel and Staff

Question: Who is Doug Smith?

Question: How are the costs related to Doug Smith charges reasonably necessary for OBOT to prosecute its action against the City in light of remote meeting technologies?

Research

Question: What are the claimed “research” costs?

Question: What is the best authority that “research” costs are or are not investigation expenses.

Transcribing and Proofreading

Question: What is proofreadnow.com?

Question: How are these charges reasonably necessary for OBOT to prosecute its action against the City?

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Trial Equipment and Tech Support

Question: Where the claimed costs were proper properly objected to and the party claiming those costs produces invoices in support that show a mix of recoverable and nonrecoverable items, did the party claiming these costs carry their burden of proving that the claimed costs are recoverable?