

1. DUBEY, ET AL. v. LAKEFRONT PROFESSIONAL BLDG., ET AL., SC20180201**Motion for Supplemental Attorney Fees Incurred to Enforce Judgment**

On May 10, 2022, Judgment After Court Trial was entered in favor of defendants/cross-complainants (collectively, "Lakefront") in the amount of \$47,074.91. Subsequently, Lakefront was awarded attorney fees in the amount of \$90,517.56. Thus, the total amount of damages and fees awarded to Lakefront is \$137,592.47.

Pending is Lakefront's motion for supplemental attorney fees in the amount of \$6,175.00, which fees Lakefront asserts were reasonably and necessarily incurred to enforce the judgment. (See Code Civ. Proc., § 685.080 [providing that judgment creditor may claim costs to enforce judgment by noticed motion].) Plaintiffs/cross-defendants (collectively, "Genius") are opposed to the request for supplemental attorney fees.

The Enforcement of Judgments Law, Code of Civil Procedure sections 680.10–724.260, provides that "[t]he judgment creditor is entitled to the reasonable and necessary costs of enforcing a judgment.... Attorney's fees incurred in enforcing a judgment are included as costs collectible under this title if the underlying judgment includes an award of attorney's fees to the judgment creditor" pursuant to a contract authorizing attorney fees, such as in this case. (Code Civ. Proc., §§ 685.040, 1033.5(a)(10)(A).)

A court assessing attorney fees begins with a lodestar figure, based on the "careful compilation of the time spent and reasonable hourly compensation of each attorney ... involved in the presentation of the case." (*Serrano v. Priest (Serrano III)* (1977) 20 Cal.3d 25, 48; *PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095; *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1134.) The California Supreme Court has noted that anchoring the calculation of attorney fees to the lodestar adjustment method " 'is the only way of approaching the problem that can claim objectivity, a claim which is obviously vital to the prestige of the bar and the courts.' " (*Serrano III, supra*, 20 Cal.3d at p. 48, fn. 23.)

The party seeking attorney fees has the burden of establishing entitlement to an award. To that end, competent evidence as to the nature and value of the attorney's

services must be presented. (*City of Colton v. Singletary* (2012) 206 Cal.App.4th 751, 784 [evidence furnished should allow the judge to consider whether the case was overstaffed, how much time the attorney spent on particular claims, and whether the hours were reasonably expended].)

Here, Lakefront moves for an order awarding attorney fees under the lodestar method in the amount of \$6,175.00. In support thereof, Lakefront submitted a declaration from its attorney, Michael K. Johnson, which includes his firm's relevant billing invoices as Exhibits A and B. Mr. Johnson's current hourly rate is \$325.00. All entries were billed at a minimum increment of 0.25 hour. Mr. Johnson declares that his firm has devoted at least 19 attorney hours in connection with judgment enforcement activities.

Genius is opposed to the requested attorney fees on the grounds that "the entire judgment has been received by Lakefront through a simple levy on Genius' bank account" and, at most, efforts related to enforce of the judgment that might be compensated amount to no more than about \$1,000.

The court agrees, in part, that not all of Lakefront's requested fees were reasonably and necessarily incurred to enforce the judgment. Having reviewed and considered Lakefront's moving papers, including counsel's declaration and the billing logs, the court finds that \$2,437.50 in attorney fees were reasonably and necessarily incurred to enforce the judgment.

TENTATIVE RULING # 1: LAKEFRONT'S MOTION FOR SUPPLEMENTAL ATTORNEY FEES TO ENFORCE JUDGMENT IS GRANTED IN PART. LAKEFRONT IS AWARDED \$2,437.50 IN SUPPLEMENTAL ATTORNEY FEES. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON

THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING. PARTIES MAY APPEAR IN PERSON AT THE HEARING. IF ANY PARTY WISHES TO APPEAR REMOTELY THEY MUST APPEAR BY ZOOM.

2. COSTANZA-MAJOR v. UPTON, 22CV0544**Defendant's Motion to Compel Responses to Discovery and Deem Matters Admitted**

This action arises from injuries sustained by plaintiff as a result of alleged health and safety issues with the premises she rented from defendant. Plaintiff's complaint asserts causes of action for negligence, premises liability, and breach of contract. Pending is defendant's motion to compel plaintiff's responses to Form Interrogatories (Set One), Special Interrogatories (Set One), and Requests for Production (Set One), and to have matters in Requests for Admission (Set One) deemed admitted.

The discovery requests were served on plaintiff by U.S. mail and electronically. (Mot., Herman Decl., Exs. 1–4.) Plaintiff did not serve any verified responses by the deadline. (*Id.*, ¶¶ 6–7.) Subsequently, defense counsel emailed two meet and confer letters to plaintiff. Plaintiff neither responded to the letters nor served any responses by the signing date of the moving papers. To date, plaintiff has not opposed the motion.

While defendant's motion appears to be well taken, notice to plaintiff is deficient. The motion was served only electronically on plaintiff. Plaintiff is self-represented. A self-represented party must affirmatively consent to electronic service of court documents. (Code Civ. Proc., § 1010.6(c); Cal. Rules of Ct., rule 2.251(c)(3)(B).) There is no notice of acceptance of electronic service by plaintiff in the court's file. Although plaintiff's address of record is still the Aspen Avenue address, in plaintiff's declaration filed on November 4, 2022, she provided an address of P.O. Box 2472, Kings Beach, CA 96143, and an email address of lorie.major4@gmail.com.

Defendant's motion is denied without prejudice. Should defendant refile the motion, the court directs defendant to serve the moving papers on plaintiff by mail at her address of record as well as the P.O. Box in Kings Beach.

**TENTATIVE RULING # 2: DEFENDANT'S MOTION IS DENIED WITHOUT PREJUDICE.
NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT (1999)*)**

19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING. PARTIES MAY APPEAR IN PERSON AT THE HEARING. IF ANY PARTY WISHES TO APPEAR REMOTELY THEY MUST APPEAR BY ZOOM.

3. SEMPER SOLARIS CONSTRUCTION v. TURNEY, 22CV0160**Plaintiff's Motions to Compel Defendant's Responses to Post-Judgment Discovery Requests**

On May 27, 2022, Judgment was entered in favor of plaintiff/judgment creditor Semper Solaris Construction in the total amount of \$3,065.00 against defendant/judgment debtor Robert Turney. Notice of Entry of Judgment was filed on June 21, 2022. Defendant did not file an appeal. The Abstract of Judgment was issued on September 13, 2022. Pending is plaintiff's motions to compel defendant to respond to post-judgment Special Interrogatories and Requests for Production of Documents.

On September 13, 2022, plaintiff served defendant by mail with Special Interrogatories (Set One) and Requests for Production of Documents (Set One). (Mot., Joint Notice of Lodgment ("NOL"), Exs. 1, 2.) Defendant did not serve any verified responses by the deadline. (Mot., Rios Decl., ¶ 5.) On October 19, 2022, plaintiff's counsel sent defendant a meet and confer letter by certified mail, which stated that defendant's responses were overdue and requested that defendant serve verified responses by November 1, 2022, or plaintiff would file a motion to compel. (*Id.*, ¶ 5; NOL, Ex. 3.) Defendant did not serve any verified responses.

The court notes that defendant did not file an opposition to the instant motion. The proof of service declares that defendant was served by mail with the moving papers on December 15, 2022. Defendant's opposition was due no later than 9 court days prior to the hearing. (Code Civ. Proc., § 1005(b).)

The Civil Discovery Act "applies to discovery in aid of enforcement of a money judgment only to the extent provided" by the Enforcement of Judgments Law ("EJL"), Code of Civil Procedure sections 680.010–724.260. (Code Civ. Proc., § 2016.070.) The EJL permits a judgment creditor to serve written interrogatories and inspection demands upon a judgment debtor if the information requested or documents demanded would aid in the enforcement of a money judgment. (*Id.*, §§ 708.020, 708.030.) Interrogatories and

inspection demands served pursuant to the EJM “may be enforced, to the extent practicable, in the same manner as” interrogatories and inspection demands “in a civil action.” (*Id.*, §§ 708.020(c), 708.030(c).)

Having reviewed the propounded discovery, the court finds that the interrogatories and inspection demands seek information and documents that would aid in the enforcement of plaintiff’s money judgment. Defendant did not serve any verified responses by the original or extended deadline. Good cause appearing, plaintiff’s motions to compel responses are granted. The court reviewed plaintiff’s counsel’s declaration concerning the fees and costs incurred in bringing the motions. The court finds that \$1,120 (4 hours x \$250/hour + \$120 filing fees) is a reasonable sanction under the Discovery Act.

TENTATIVE RULING # 3: PLAINTIFF’S MOTIONS TO COMPEL DEFENDANT’S RESPONSES TO DISCOVERY REQUESTS ARE GRANTED. DEFENDANT MUST SERVE VERIFIED RESPONSES, WITHOUT OBJECTIONS, TO PLAINTIFF’S (1) SPECIAL INTERROGATORIES (SET ONE) AND (2) REQUESTS FOR PRODUCTION OF DOCUMENTS (SET ONE) AND PAY PLAINTIFF’S COUNSEL \$1,120.00 NO LATER THAN 30 DAYS FROM THE DATE OF SERVICE OF THE NOTICE OF ENTRY OF ORDER. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT’S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING. PARTIES MAY APPEAR IN PERSON AT THE HEARING. IF ANY PARTY WISHES TO APPEAR REMOTELY THEY MUST APPEAR BY ZOOM.

4. SIERRA INVESTMENT GROUP v. SIDON, ET AL., 22UD0390

Ex Parte Application for Leave to File a First Amended Complaint

TENTATIVE RULING # 4: UPON PLAINTIFF FILING PROOF OF SERVICE OF THE NOTICE OF HEARING TO DEFENDANTS, AND IN THE ABSENCE OF DEFENDANTS DEMONSTRATING PREJUDICE TO THEIR DEFENSE, PLAINTIFF'S APPLICATION FOR LEAVE TO FILE A FIRST AMENDED COMPLAINT IS GRANTED. THE FIRST AMENDED COMPLAINT MUST BE FILED AND SERVED NO LATER THAN JANUARY 25, 2023. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING. PARTIES MAY APPEAR IN PERSON AT THE HEARING. IF ANY PARTY WISHES TO APPEAR REMOTELY THEY MUST APPEAR BY ZOOM.