

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF VENTURA

Tentative Ruling

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**2023CUBC016696: EDWARD ZAPATA, et al. vs FCA US LLC, et al.**  
**02/25/2026 in Department 44**  
**Motion for Attorney Fees/Costs**

Effective **January 5, 2026**, Judge Charmaine H. Buehner and all cases previously assigned to Department J4 at the Juvenile Justice Center in Oxnard transferred to Department 44, located at the Hall of Justice, 800 South Victoria Avenue, Ventura, California 93009.

**Department Rules.** Parties and counsel shall follow the Department 44 rules and Zoom protocols, available at <https://ventura.courts.ca.gov/department-44>.

**Remote Appearances.** The Court allows Zoom appearances as a courtesy to parties and counsel. The Court does not accommodate Court Call appearances.

**BEFORE FEBRUARY 23, 2026:** Provide notice of your intent to appear remotely via Zoom by 4 p.m. the court day before each hearing by email at [courtroom44@ventura.courts.ca.gov](mailto:courtroom44@ventura.courts.ca.gov), with a subject line that includes “NOTICE TO APPEAR VIA ZOOM.”

**ON AND AFTER FEBRUARY 23, 2026:** Register for each court appearance by 4:00 p.m. the day before your hearing: <https://ventura-courts-ca.zoom.us/meeting/register/iqN7uhQSQMuOqs-9TQXgEQ>.

**You will be denied remote entrance to the hearing if you do not timely notify/register to appear via Zoom by 4:00 p.m. the court day before your hearing. No advance notice is required to appear in person.**

**Tentative Rulings.** Oral argument should address the tentative decision. To submit on the tentative decision, email [courtroom44@ventura.courts.ca.gov](mailto:courtroom44@ventura.courts.ca.gov) before 8:00 a.m. on the hearing date, copying all other parties, Use the subject line “SUBMISSION ON TENTATIVE”, [Case Number], [Case Title] and [Party]. If not all parties submit, the hearing will proceed, and the tentative ruling may change.

The Court may adopt, modify or reject the tentative ruling after hearing. The tentative ruling has no legal effect unless and until adopted by the Court.

**Motion:** Plaintiffs’ Motion for Attorney Fees

**Tentative Ruling:**

Plaintiffs’ Motion for Attorney Fees is GRANTED in part, as follows:

The Court awards the Taylor firm reasonable attorney fees of \$8,387.50 and costs of \$1,405.95, and the Wirtz firm attorney fees of \$8,022.50 and costs of \$1,540.14. The Court declines to award a multiplier in this garden-variety lemon law case that did not involve any unusual issues.

The total fees awarded are \$16,410, and the total costs awarded are \$2,946.09.

Plaintiff to give notice.

A. Preliminary Matters

As a preliminary matter, the Court notes that *none* of the declarations filed in support of or in opposition to the pending motion comply with California Rule of Court, Rule 3.1110(f), which requires that electronic exhibits “**must include electronic bookmarks with links to the first page of each exhibit and with bookmark titles that identify the exhibit number or letter and briefly describe the exhibit.**” (emphasis added). Taken together, the declarations in support of and in opposition to this motion comprise more than 600 pages of materials. Counsel, all of whom extensively tout their experience in their respective declarations, are reminded that their compliance with the rules are for the purpose of aiding the Court in its review and consideration of their papers.

1. Objections to the Taylor Declaration

The Court sustains Defendant’s objections 1-4, pertaining to Exhibits 2-5 of the Taylor Declaration.

2. Objections to the Wirtz Declaration

The Court sustains Defendant’s objections 1-5, pertaining to Exhibits 2-6 of the Wirtz Declaration.

3. Objections to the Stark Declaration

The Court sustains Plaintiffs’ objections 1-3, and 6-16. The Court overrules objections 4 and 5.

4. Supplemental Wirtz Declaration

The Court declines to consider the supplemental declaration submitted with the reply. (*Haydon v. Elegance at Dublin* (2023) 97 Cal.App.5th 1280, 1289 [citing *Jack v. Ring LLC* (2023) 91 Cal.App.5th 1186, 1210].)

B. General Principles

“Except as attorney’s fees are specifically provided for by statute, the measure and mode of compensation of attorneys and counselors at law is left to the agreement, express or implied, of the parties; but parties to actions or proceedings are entitled to their costs, as hereinafter provided.” (Code Civ. Proc., § 1021; (*Robles v. City of Ontario* (2024) 106 Cal.App.5th 574, 581-582 [“The default for attorney fees not specifically provided for by statute is commonly referred to as the ‘American rule,’ under which each party pays its own fees.”]; *Musaelian v. Adams* (2009) 45 Cal.4th 512, 516 [stating that section 1021 codifies the American Rule].

“Except as otherwise expressly provided by statute, a prevailing party is entitled as a matter of right to recover costs in any action or proceeding.” (Code Civ. Proc., § 1032.)

Costs allowable under section 1033.5 include filing, motion, and jury fees; deposition-related fees; fees for service of process; fees of expert witness fees ordered by the court; attorney fees when authorized by contract, statute, or law; fees for electronic service and filing of documents if the court requires or orders electronic filing or service; (*Id.*, subs. (a)(1), (3), (4), (8), (10), (14).)

Attorney fees pursuant to Civil Code section 1717 are allowable as costs under section 1032. (*Id.*, § 1033.5, subd. (c)(5)(B).)

“It is well established that the determination of what constitutes reasonable attorney fees is committed to the discretion of the trial court, whose decision cannot be reversed in the absence of an abuse of discretion.” (*Melnyk v. Robledo* (1976) 64 Cal.App.3d 618, 623; *PLCM Group v. Drexler* (2000) 22 Cal.4th 1084, 1096 [quoting *Melnyk*].)

Section 1033.5 also specifies costs that are not allowable. These include, but are not limited to, fees of expert witnesses not ordered by the court; investigation expenses; postage; and photocopy charges, except for exhibits. (Code Civ. Proc., § 1033.5, subs. (b)(1)-(3).)

“Costs are allowable if incurred, whether or not paid.” (*Id.*, subd. (c)(1).) Costs must be reasonably necessary rather than merely convenient or beneficial to the conduct of the litigation, and must also be reasonable in amount. (*Id.*, subd. (c)(2)-(3).)

The court also has discretion to award costs not specified in section 1033.5. (*Id.*, subd. (c)(4).)

#### Attorney Fees and Costs Under the Song-Beverly Act

“If the buyer prevails in an action under this section, the buyer shall be allowed by the court to recover as part of the judgment a sum equal to the aggregate amount of costs and expenses, including attorney’s fees based on actual time expended, determined by the court to have been reasonably incurred by the buyer in connection with the commencement and prosecution of such action.” (Code Civ. Proc., § 1794, subd. (d); *Reck v. FCA US LLC* (2021) 64 Cal.App.5th 682, 691 [“A buyer who prevails in an action under the Song-Beverly Act may also recover reasonable attorney fees. (citing § 1794, subd. (d))].) The lodestar method for calculating attorney fee awards is used in lemon law cases. (*Reck, supra*, at p. 691.)

The burden is on the prevailing buyer to establish that the fees incurred were allowable, reasonably necessary to the conduct of the litigation, and were reasonable in amount. (*Hanna v. Mercedes-Benz USA, LLC* (2019) 36 Cal.App.5th 493, 507.)

#### C. Application

##### 1. Attorney Fees and Costs-Taylor Firm

The hourly rate sought by the Taylor firm for the work of Norman Taylor is \$645. (Taylor Decl., ¶ 12, Exh. 1.) Mr. Taylor is experienced in matters of this type, with nearly 40 years' experience. (*Id.*, ¶¶ 6-15.) The Court finds his hourly rate to be reasonable, given his experience.

Mr. Taylor's claimed time adds up to 16.4 hours. The duration seems high for some of the tasks. Further, some of the tasks could have been performed by a paralegal to save money. For example, .8 for a letter on September 22, 2023, seems high. The entry of November 15, 2023, shows .3 for reviewing the conformed complaint and checking the assigned judge and .4 for a letter to the clients enclosing a copy of the complaint. The February 6, 2024, entry shows .4 for reviewing the file and drafting a request for entry of default. The latter is a task that could have been done by a paralegal. Further, the total time for this entry seems high. The entry of March 8, 2024, also seems high: .7 for checking the trial calendar and drafting the CMC statement and the notice of posting jury fees. The latter task is something that also could have been done by a paralegal. The March 22, 2024, entry is .3 for receiving the CMC ruling and calendaring a trial date. The latter task is administrative. Overall, the amount of time seems high. The May 3, 2024, entry also seems high for drafting what Defendant argues were standard sets of form and special interrogatories, document requests, and requests for admission. (Stark Decl., ¶¶ 7-9, Exhs. C, D.) A review shows they are substantially similar. Further, .3 for drafting a set of general form interrogatories seems high, as well. Finally, .5 for drafting a notice of association on July 15, 2024, also seems high. After review, the Court reduces the time requested by 3.9 hours and approves 12.5 hours at \$645 an hour for a total of \$8,062.50 for Mr. Taylor's time.

The Taylor firm seeks \$250 an hour for the work of its paralegals, who have 15 and 30 years' experience, respectively, though their experience in matters of this type is not described. (Taylor Decl., ¶¶ 13, 20, Exh. 1.) A review of the firm's billing records indicates that the paralegals performed minor tasks, many of which would normally be performed by a legal assistant. Such charges are not billed for, as indicated by the "no charge" notation in the billing records. (*Id.*, Exh. 1.) The tasks for which time is claimed include gathering and preparing exhibits; researching background information for use in future discovery; and a blended entry consisting of preparing a proof of service, scanning and e-serving discovery, saving files, and calendaring deadlines. Given the nature of the work performed, the Court finds the hourly rate sought to be very high, regardless of the paralegals' experience. The Court approves an hourly rate of \$125. The total time spent is 3.0 hours. The May 3, 2024, entry is purely administrative work, so the Court disapproves of that time (.4) and approves a total of 2.6 hours at \$125 an hour, or \$325 for paralegal time.

After consideration of the procedural posture of the case when it settled and a review of the record before the Court, the Court declines to enhance the fee award. The Court finds this to be a garden-variety lemon law case that, like many thousands filed in California, settled before trial. There was nothing novel or complex about it. Accordingly, the Court exercises its discretion and rejects the request for application of a multiplier.

Finally, the Taylor firm seeks reimbursement of costs in the amount of \$1,405.95. No invoices are attached. (Taylor Decl., Exh. 1.) The costs are for filing fees, service of process fees, and jury fees. Defendant does not address the reasonableness of the claimed costs in its opposition. The

costs are of the type allowable under section 1033.5. Hence, the Court approves the amount requested.

In sum, the Court awards the Taylor Firm a total of \$9,793.45, calculated as follows: \$8,062.50 (12.5 x \$645 attorney fees) + \$325 (2.6 x \$125 paralegal fees) + \$1,405.95 (costs).

2. Attorney Fees and Costs-Wirtz Firm

The hourly rates sought by the Wirtz Firm are \$600 an hour for the work of attorneys Amy Rotman and Jessica Underwood; \$300 an hour for the work of paralegal Rebecca Evans; and \$250 an hour for the work of paralegals Dalia Zaki and Citlali Sanchez. (Wirtz Decl., ¶¶ 17-21.) Ms. Rotman was admitted to practice in California in 2012 and has worked on hundreds of lemon law cases. (*Id.*, ¶ 17.) Ms. Underwood was admitted in California in 2015 and has also worked on hundreds of lemon law cases. (*Id.*, ¶ 18.) Based on their experience and the Court's familiarity with rates in the local community, the Court finds the requested hourly rates to be unreasonably high and instead approves rates of \$525 for Ms. Rotman and \$450 for Ms. Underwood.

The amount of time claimed for work performed by Ms. Rotman is 9.8 hours, consisting of the following tasks: reviewing discovery requests; reviewing documents; communicating with clients; auditing fees; and drafting the instant motion and supporting documents. Included are an additional 5.1 hours for anticipated work, including reviewing the opposition, drafting the reply, and attending the hearing. (*Id.*) The Court declines the 5.1 hours claimed for work not performed and the .2 hours for auditing fee invoices, and instead approves 4.5 hours at \$525, or \$2,362.50.

The amount of time claimed for work performed by Ms. Underwood is 12.3 hours, consisting of the following tasks: drafting and reviewing communications with clients and opposing counsel; summarizing documents; drafting the mediation brief; drafting the damages analysis; and reviewing the 998 offer. (*Id.*) The frequency of the client communications seems high, and some of the entries seem high as well, given the frequency of communications. The October 1, October 3, and October 16, 2024, entries are examples of the latter. Otherwise, the time appears reasonable. The Court deducts 1.5 hours from the total hours claimed and approves 10.8 hours at \$450 an hour, or \$4,860.

Ms. Evans is a senior paralegal with several years' experience in all areas of litigation who has prepared "countless" cases for trial. She completed her paralegal program in 2015. (*Id.*, ¶ 19.) Ms. Zaki completed her paralegal program in June 2023. (*Id.*, ¶ 20.) Ms. Sanchez completed her paralegal program in June 2022. (*Id.*, ¶ 21.) The Court finds the hourly rates sought to be high given the experience of the paralegals and the nature of the work performed, as will be discussed below. The Court finds \$125 an hour to be reasonable in Ventura County.

The tasks performed by Ms. Evans, according to the billing sheets produced, include speaking with clients; drafting documents, including proofs of service, the notice of settlement, emails with clients and opposing counsel, the request for dismissal, and both memoranda of costs; filing and service of documents; and auditing costs. Also included is an entry for what appears to be anticipated work on February 18, 2026, for preparing, filing, and serving the reply memorandum.

The total amount of work performed is 6.1 hours, but the firm only claims 5.6 hours. (Wirtz Decl., Exh. 1.) Accordingly, the Court starts from the claimed 5.6 hours, and declines from this requested expenditure of time .3 hours claimed for work not performed and the .2 hours requested for auditing costs on January 3, 2025, and instead approves 5.1 hours at \$125 an hour, or \$637.50.

The total amount of work performed by Ms. Zaki is 4.1 hours, but the total amount claimed is .8 hours, consisting of drafting emails and communications with clients. (*Id.*) The Court finds the time claimed to be reasonable and approves \$100, calculated as follows: .8 x 125.

The total amount of work performed by Ms. Sanchez and claimed is .5 hours, consisting of drafting documents, including proofs of service, deposition notices, emails, and the 998 offer. (*Id.*) The amount of time claimed is reasonable. The Court thus approves \$62.50 for her time, calculated as follows: .5 x \$125.

The Court declines to enhance the fee award by application of a multiplier for the same reasons as set forth above.

Finally, the Wirtz Firm seeks costs in the amount of \$1,540.14. The firm filed a memorandum of costs that lists the costs as follows: \$80 for filing and motion fees; \$625 for court reporter fees as established by statute; \$181.80 for electronic filing/service; \$220 for “courtesy copy”; and \$433.34 for “mediation.” The total amount from the Memorandum of Costs differs from the amount specified in the declaration. (Wirtz Decl., ¶ 48 [\$2,294.09].) No invoices are provided and there is no explanation provided for the difference in amounts. On this information, the Court approves the amount sought in the memorandum. In the absence of an objection from Defendant, the Court approves the costs sought.

In sum, the Court awards the Wirtz Firm a total of \$9,562.64, calculated as follows: \$7,222.50 ((4.5 x \$525) + (10.8 x \$450)) attorney fees) + \$800 (6.4 x \$125 paralegal fees) + \$1,540.14 (costs).