

SUPERIOR COURT OF CALIFORNIA
COUNTY OF VENTURA

Tentative Ruling

2025CUBC036958: YULIANA GUTIERREZ VILLA vs GENERAL MOTORS LLC
04/15/2026 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://www2.ventura.courts.ca.gov/Courtroom/C44>.

Remote Appearances. The Court allows Zoom appearances as a courtesy to parties and counsel. The Court does not accommodate Court Call appearances. **You MUST register by 4:00 p.m. the court day before your hearing or you will be DENIED entry to the hearing:**

ZOOM Registration Link:

<https://ventura-courts-ca.zoom.us/meeting/register/iqN7uhQSQMuoqs-9TQXgEQ>

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 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: Plaintiff Yuliana Gutierrez Villa’s Motion for Attorney’s Fees and Costs (*opposed*)

Tentative Ruling:

Plaintiff Yuliana Gutierrez Villa’s Motion for Attorney’s Fees and Costs is GRANTED subject to modification. The Court will approve \$16,162.50 in attorney fees and \$1,063.60 in costs, for a total of \$17,221.10.

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.)

“Costs and expenses” outside of those allowable under Code of Civil Procedure section 1033.5 may be allowed under Civil Code section 1794, subdivision (d), so long as they were reasonably necessary to the conduct of the litigation and were reasonable in amount. (*Warren v. Kia Motors America, Inc.* (2018) 30 Cal.App.5th 24, 42-43; see also *Jensen v. BMW of North America, Inc.* (1995) 35 Cal.App.4th 112, 137-138, disapproved on other grounds in *Rodriguez v. FCA US LLC*

(2024) 17 Cal.5th 189, 204-205; *Hanna v. Mercedes-Benz USA, LLC* (2019) 36 Cal.App.5th 493, 506-507.)

Application

1. Attorney Fees

Plaintiff seeks an award of attorney fees at the hourly rates of \$650 for Mr. Johnson and \$500 for Mr. Ullman. (Johnson Decl., ¶ 7; Ullman Decl., ¶ 4.) In support of the hourly rates, counsel offer their experience and the hourly rates of other attorneys who practice in San Francisco, Santa Ana, San Diego, and Orange County. (Johnson Decl., ¶¶ 6-7; Ullman Decl., ¶ 3-6.) Plaintiff further argues that the case was accepted on a contingency basis. (Johnson Decl., ¶ 8; Ullman Decl., ¶ 7.)

The Court disregards the hourly rates charges by other lawyers in other counties, as such rates are not relevant to whether rates are reasonable in Ventura County.

Mr. Johnson was admitted in December 2015 and has ten years' experience and has either defended or prosecuted lemon law cases the entire time. He has been involved in more than one thousand lemon law claims. As a defense lawyer prior to January 2018, his hourly rate apparently ranged from \$300-\$500. (¶¶ 5-6.)

Mr. Ullman was admitted in June 2016 and, like Mr. Johnson, has defended and prosecuted lemon law claims. He estimates he has been involved with approximately 500 lemon law cases alone as a defense lawyer. (Ullman Decl., ¶¶ 3.)

As set forth in other orders of this Court, including orders involving Plaintiff's counsel here, while substantial experience is relevant, it does not by itself justify application of a premium rate in routine lemon law cases. An hourly rate is reasonable if it reflects the prevailing rate for comparable services in comparable litigation. This case, like many others the Court sees, was a routine lemon law case that settled before trial without being challenged by dispositive motions. No depositions appear to have been taken. No risk was confronted and overcome. Accordingly, the Court finds the requested hourly rates to be high on the facts of this case and instead approves \$475 an hour for Mr. Johnson's work and \$450 an hour for Mr. Ullman's work.¹

In support of the hours claimed, Plaintiff offers the itemized billing entry. (Johnson Decl., ¶ 2, Exh. 1.) The time claimed was reduced to account for any form of inefficiency. (Johnson Decl., ¶ 2, Ullman Decl., ¶ 2, Exh. 1.) Plaintiff has also submitted a supplemental declaration from Mr. Ullman to account for time spent reviewing the opposition and preparing the reply memorandum. (Ullman Supp. Decl., ¶ 2.)

After a review of the billing records of Mr. Johnson, the Court finds that the time claimed is reasonable, with the following exceptions:

¹ Here, GM argues that an appropriate hourly rate for plaintiffs' counsel is \$450-550 per hour. The Court will not consider whether further hourly reductions in this case are appropriate based thereon.

- The .2 hours claimed on December 13, 2024, for preparing and sending a legal services agreement to Plaintiff is unreasonable and is disallowed.
- The .3 hours claimed on December 16, 2024, for review of the executed legal services agreement is unreasonable and is disallowed.
- The 1.8 hours claimed on January 7, 2025, for drafting the complaint and related documents is unreasonable and is reduced to 1 hour.
- The .2 hours claimed on January 10, 2025, for reviewing the conformed complaint and related documents is unreasonable and is disallowed.
- The .2 hours claimed on January 13, 2025, for reviewing the affidavit of proof of service is unreasonable and is disallowed.
- The .1 hours claimed on February 14, 2025, for an “attempted” phone call is unreasonable and is disallowed.
- The .1 hours claimed on February 18, 2025, for an “attempted” phone call is unreasonable and is disallowed.
- The .6 hours claimed on May 13, 2025, for preparing and filing the case management statement and notice of posting jury fees and for preparing correspondence related to the same is unreasonable and is reduced to .4 hours.
- The 1.7 hours claimed on May 28, 2025, for reviewing the file and appearing at the CMC, followed by updating and calendaring date and sending correspondence to the client is unreasonable and is reduced to .7 hours.
- The .5 hours claimed on September 30, 2025, for drafting and filing the notice of settlement and serving it on opposing counsel is unreasonable and is reduced to .2 hours.
- The .1 hours claimed on October 2, 2025, for reviewing the conformed notice of settlement is unreasonable and is disallowed.
- The 2.8 hours claimed on March 18 and 19, 2025, are disallowed because the work was not performed by Mr. Johnson.

After a review of the billing records of Mr. Ullman, the Court finds that the time claimed is reasonable, with the following exceptions:

- The .7 hours claimed on April 25, 2025, for drafting the deposition notice of the person most qualified is unreasonable and is reduced to .3 hours.
- The .4 hours claimed on April 25, 2025, for leaving a voicemail and preparing a letter on the same content of the voicemail is unreasonable and is reduced to .2 hours.

After such review, the Court approves a total of 34.7 hours, of which 21.9 were performed by Mr. Johnson and 12.8 were performed by Mr. Ullman, and awards attorney fees in the total amount of \$16,162.50, calculated as follows: $[21.9 \times \$475] + [12.8 \times \$450]$.

2. Costs

Plaintiff has submitted a memorandum of costs in support of costs claimed. Costs requested include \$585.60 for filing and motion fees; \$150 for jury fees; \$50 for service of process; and \$372 for “Other” costs, which include \$300 for mediation and \$72 for CourtCall expenses. (Johnson Decl., Exh. 2.) No invoices were provided. “If the items appear to be proper charges the verified memorandum is prima facie evidence that the costs, expenses and services therein

listed were necessarily incurred by the defendant[.]” (*Oak Grove School Dist. of Santa Clara County v. City Title Ins. Co.* (1963) 217 Cal.App.2d 678, 698.)

Defendant objects to the request for jury fees on grounds that such fees are recoverable only when a trial occurs, citing *Perko’s Enterprises, Inc. v. RRNS Enterprises* (1992) 4 Cal.App.4th 238, 245. A review of that case shows, however, that filing fees, and not jury fees, were at issue. The Court therefore rejects the argument. Further, jury fees are expressly allowable, without any express limitation. (Code Civ. Proc., § 1033.5, subd. (a)(1).)

Next, Defendant objects to \$67 in filing fees claimed for filing the proof of service, case management statement, and a “vague RFD” fee on grounds that the costs did not advance Plaintiff’s case. Defendant cites *Ladas v. California State Auto. Assn.* (1993) 19 Cal.App.4th 761, apparently only for the principle that costs must be reasonably necessary. Defendant also cites *Perko’s* in support of its claim that costs associated with unnecessary or redundant filings are not allowable. The filing fee at issue in *Perko’s* was an opposition to an application for a right to attach order. (*Perko’s, supra*, 4 Cal.App.4th at p. 240.) The trial court denied the motion to tax the cost. The Court of Appeal reversed but not because the cost was not allowable, but rather because the trial court did not explain the basis for its decision. It remanded so the trial court could do so. (*Id.* at p. 245.) The case thus does not support Defendant’s argument.

The Court will disallow the “RFD” fee, however. Assuming it stands for “request for dismissal,” one has not been filed yet. Thus, the cost is speculative. The other filing fees are the types of cost routinely incurred in a civil action and are allowed.

Finally, Defendant objects to the \$72 CourtCall cost. This cost was incurred for convenience and is disallowed. (Code Civ. Proc., § 1033.5, subds. (c)(2)-(3).)

In sum, the Court approves costs in the total amount of \$1,063.60.

Conclusion

In sum, the motion is granted. The Court awards \$16,162.50 in attorney fees and \$1,063.60 in costs, for a total of \$17,226.10.

Counsel for Plaintiff is to give notice of the Court’s ruling.