

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Harrosh v. Tahoe Regional Planning Agency; George and Virginia
Johannessen

No. 2:21-cv-01969-KJM-JDP (E.D. Cal. May 27, 2025) · No. 2:21-cv-01969-KJM-JDP · Decided May 28, 2025

SUMMARY

The court addresses competing motions for costs under Federal Rule of Civil Procedure 54(d)(1) after partially favorable outcomes for plaintiff Michael Harrosh and defendants George and Virginia Johannessen. It determines that both sides partially prevailed and equitably allocates recoverable costs, excluding attorney intellectual labor from the defendants’ administrative-record expenses. The court awards Harrosh \$201 and the Johannessens \$9,077.81, resulting in a net costs award of \$8,876.81 to the Johannessens.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	May 28, 2025
DOCKET	2:21-cv-01969-KJM-JDP
DISPOSITION	other
PROCEDURAL POSTURE	Postjudgment dispute over competing bills of costs under Federal Rule of Civil Procedure 54(d)(1), following partial merits relief for Harrosh, summary judgment for the Johannessens on two claims, voluntary dismissal of a fourth claim, and remand to the Tahoe Regional Planning Agency.
STANDARD OF REVIEW	The court exercised its discretion under Federal Rule of Civil Procedure 54(d)(1) to determine prevailing-party status and equitably allocate taxable costs.
PRECEDENTIAL VALUE	Unknown; district-court order designated per curiam, with no precedential-status designation in the opinion.

TOPICS

- costs
- civil procedure
- administrative law
- judicial review of agency action

PRACTICE AREAS

civil procedure

administrative law

costs

QUESTIONS PRESENTED

1. Whether Harrosh or the Johannessens qualified as the prevailing party for purposes of Rule 54(d)(1) when each achieved only partial success.
2. Whether the court could equitably allocate taxable costs equally between Harrosh and the Johannessens when no party was the sole prevailing party.
3. Which portions of the Johannessens' administrative-record expenses constituted taxable costs rather than non-taxable attorney intellectual labor.
4. What amount of costs should be awarded to each party after excluding improper or mixed entries.

HOLDINGS

1. When parties each obtain some relief but fail to achieve their objectives in meaningful respects, each may be considered a partial prevailing party rather than one party being treated as the sole prevailing party.
2. Rule 54 permits a district court to allocate costs equitably among parties when it cannot fairly be said that one party is the sole prevailing party.
3. Costs for collecting, copying, digitizing, organizing, indexing, numbering, serving, and filing an administrative record may be taxable under Rule 54, but attorney intellectual effort and entries combining taxable and non-taxable work are not properly awardable costs.

KEY QUOTATIONS

“It refers to the “party in whose favor a judgment is rendered,” the party “who has been awarded some relief by the court.”” (at 1)

“Rule 54 gives district courts discretion to allocate costs equitably among the parties when, as in this case, it cannot fairly be said that any one party is the sole prevailing party.” (at 2)

“For example, costs for tasks like “exemplification and copying” can properly be awarded to a prevailing party under Rule 54, but money paid for “the intellectual effort involved” in those tasks is not a “cost.”” (at 3)

FACTUAL BACKGROUND

Harrosh sought, among other relief, a declaration that the Tahoe Regional Planning Agency's vote approving the Johannessens' pier permit application failed to satisfy applicable legal requirements. The court agreed that the vote was ineffective, but it also granted the Johannessens summary judgment on two claims, Harrosh voluntarily dismissed another claim, denied a declaration that the application was rejected, and remanded for another agency vote. The parties then submitted competing requests for costs, including Harrosh's \$402 clerk-fee request and the Johannessens' \$28,117.12 request for preparing the administrative record.

PROCEDURAL HISTORY

Harrosh challenged the Tahoe Regional Planning Agency's approval of the Johannessens' pier permit application. The court previously held that the agency's vote was ineffective, granted the Johannessens summary judgment on Harrosh's second and third claims, accepted voluntary dismissal of the fourth claim, denied Harrosh's request to declare the application rejected, and remanded for another agency vote. After judgment, both Harrosh and the Johannessens sought costs; the court allocated permissible costs equally and awarded the Johannessens a net \$8,876.81.

DISPOSITION

other

CASES CITED

- Buckhannon Bd. & Care Home, Inc. v. W. Va. Dep't of Health & Human Res., 532 U.S. 598, 603 (2001)
- Klamath Siskiyou Wildlands Ctr. v. U.S. Bureau of Land Mgmt., 589 F.3d 1027, 1030 (9th Cir. 2009)
- Williams v. Gaye, 895 F.3d 1106, 1133 (9th Cir. 2018)
- C & E Servs., Inc. v. Ashland Inc., 601 F. Supp. 2d 262, 280 (D.D.C. 2009)
- Sierra Club v. Tahoe Reg'l Plan. Agency, No. 13-00267, 2014 WL 3778274, at *4–5 (E.D. Cal. July 30, 2014)
- League to Save Lake Tahoe v. Tahoe Reg'l Plan. Agency, No. 09-478, 2012 WL 3206412, at *1–2 (D. Nev. Aug. 3, 2012)
- Zuill v. Shanahan, 80 F.3d 1366, 1371 (9th Cir. 1996)
- Conservation Cong. v. U.S. Forest Serv., No. 12-02800, 2014 WL 6612088, at *2 (E.D. Cal. Nov. 20, 2014)