

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

Fumiko Iwasaki v. Breeze Aviation Group Inc.

No. 2:24-cv-00817 (D. Utah Jan. 14, 2026) · No. 2:24-cv-00817 · Decided January 14, 2026

SUMMARY

The United States District Court for the District of Utah partially grants Breeze Aviation Group Inc.'s motion for attorney fees incurred in connection with discovery motions concerning David Neeleman's deposition. Applying Federal Rule of Civil Procedure 37, the court reduces the requested \$14,108.50 by \$1,705.75 and awards Breeze \$12,402.75.

CASE DETAILS

COURT	United States District Court for the District of Utah
WRITING FOR THE COURT	Dustin B. Pead
JURISDICTION	United States District Court for the District of Utah
DECIDED	January 14, 2026
DOCKET	2:24-cv-00817
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff objected to Defendant's request for attorney fees and costs incurred in connection with discovery-related motions. The court considered Plaintiff's objections to fees incurred after withdrawal of a deposition notice and to the amount of attorney time devoted to certain motions.
STANDARD OF REVIEW	The court evaluated whether the requested attorney fees were reasonable under Federal Rule of Civil Procedure 37 and exercised its discretion to reduce unreasonable or duplicative fee amounts.
PRECEDENTIAL VALUE	unpublished

TOPICS

- attorney fees
- discovery dispute
- sanctions
- civil procedure

PRACTICE AREAS

- civil procedure
- discovery
- attorney fees

QUESTIONS PRESENTED

1. Whether attorney fees may be awarded under Federal Rule of Civil Procedure 37 when the requested discovery is provided or a deposition is withdrawn after the discovery motion is filed.
2. Whether the amount of attorney fees requested by Breeze was reasonable.

HOLDINGS

1. Attorney fees may be awarded under Federal Rule of Civil Procedure 37(a)(5)(A) when the requested discovery is provided or a deposition is withdrawn after the discovery motion has been filed, even if the discovery motion is not ultimately granted.
2. Breeze was entitled to reasonable attorney fees, but the amounts attributed to its short-form discovery motion and motion for leave were unreasonable and had to be reduced by one-half.

KEY QUOTATIONS

“There is nothing inherently unreasonable about a client having multiple attorneys, and they may all be compensated if they are not unreasonably doing the same work and are being compensated for the distinct contribution of each lawyer” (Order)

FACTUAL BACKGROUND

Breeze sought \$14,108.50 for 37 hours of work related to a short-form discovery motion, a motion for leave, and a motion for protective order. Iwasaki did not challenge counsel's hourly rates but objected to fees incurred after she withdrew Neeleman's deposition notice and to the number of attorneys performing similar work. The court found that the deposition was withdrawn only after Breeze filed its motion for protection and determined that the fees attributable to the short-form discovery motion and motion for leave were excessive in light of the straightforward nature and length of those filings.

PROCEDURAL HISTORY

Magistrate Judge Pead previously ruled that Breeze was entitled to attorney fees and costs incurred in opposing David Neeleman's deposition. Breeze submitted an affidavit supporting its fee request, and Iwasaki objected. After the filing was treated as a motion and briefing was completed, the court granted the motion in part and reduced the requested award.

DISPOSITION

other

CASES CITED

- Reid v. LVNV Funding LLC, 2016 U.S. Dist. LEXIS 115932, at *5 (D. Utah Aug. 29, 2016)
- Norman v. Housing Authority of Montgomery, 836 F.2d 1292, 1302 (11th Cir. 1988)

OPINION

IN THE UNITED STATES DISTRICT COURT DISTRICT OF UTAH FUMIKO IWASAKI, RULING & ORDER GRANTING Plaintiff, PLAINTIFF'S MOTION FOR ATTORNEY FEE AWARD AMOUNT IN PART vs. Case No. 2:24-cv-00817 BREEZE AVIATION GROUP INC., a Delaware Corporation, District Court Judge Robert J. Shelby Defendant. Magistrate Judge Dustin B. Pead BACKGROUND On September 9, 2025, Magistrate Judge Pead issued a ruling granting Defendant Breeze Aviation Group's ("Breeze") its "attorney fees and costs incurred in opposing David Neeleman's deposition."¹ Shortly thereafter, Defendant filed an Affidavit in support of its attorney fee request and Plaintiff Fumiko Iwasaki ("Iwasaki") objected.² 1 ECF No. 35, Memorandum Decision and Order.

2 ECF No. 36, Affidavit/Declaration in Support of Defendant's Award of Attorney Fees. Because the filing was not captioned as a "Motion" it was not flagged on the court docket as an active and pending matter. The District Court Clerk's Office has since modified Defendant's filing to reflect a "Motion" and Defendant has been given an opportunity to file its Reply.

See, ECF No. 37 Plaintiff's Memorandum in Opposition; ECF No. 39, Clerk's Office Modification of Docket; ECF No. 41, Plaintiff's Reply to Response. ORDER In total, Breeze seeks \$14,108.50 for 37 hours of work related to filing Defendant's Short-Form Discovery Motion,³ Motion for Leave⁴ and Motion for Protective Order.⁵ Plaintiff does not dispute that the hourly rates for Defendant's counsel are reasonable for litigation attorneys of similar experience in the Salt Lake legal market.

Plaintiff does, however, take issue with the award of fees incurred after it withdrew David Neeleman's deposition notice, as well as the number of attorneys working on similar tasks in the case. 6 First, as discussed in the court's Memorandum Decision granting fees, although Iwasaki withdrew Mr. Neeleman's deposition notice, Plaintiff did so only after Defendant's motion for protection was filed.

Pursuant to Rule 37, attorney fees may be awarded not only when a discovery motion is granted, but also where "the disclosure or requested discovery is provided [or a deposition is withdrawn] after the motion was filed."⁷ Second, the court is generally hesitant to "second-guess" the time spent by counsel or the amount of legal resources needed. 8 3 ECF No. 20, Defendant's Short Form Discovery Motion.

4 ECF No. 22, Defendant's Motion for Leave. 5 ECF No. 26, Defendant's Motion for Protective Order. 6 ECF No. 37; ECF No. 37-1, Declaration of Galen Shimoda. 7 Fed. R. Civ. P. 37(a)(5)(A) (attorney fees may be awarded not only when a discovery motion is granted but also where "the disclosure or requested discover is provided [or a deposition is withdrawn] after the motion was filed.").

8 Reid v. LVNV Funding LLC, 2016 U.S. Dist. LEXIS 115932, at *5 (D. Utah Aug. 29, 2016); see also Norman v Housing Authority of Montgomery, 836 F.2d 1292, 1302 (11th Cir. 1988) (“There is nothing inherently unreasonable about a client having multiple attorneys, and they may all be compensated if they are not unreasonably doing the same work and are being compensated for the distinct contribution of each lawyer”).

Further, Plaintiffs objection is not specific as to exactly which fee amounts he disputes.’ Nonetheless, Defendant’s Short-Form Discovery Motion and Motion for Leave total approximately four (4) pages of straightforward work product, ‘o yet account for 8.8 hours of work for a total of \$3,411.50.‘! While the court recognizes the significant expertise of counsel and the quality of work performed, the court does not find this amount reasonable and reduces the amount by half, to \$1,705.75, and thereafter reduces the overall fee amount by this number.

Based on the above analysis, the court concludes that Breeze’s Motion is granted in part and Defendant is entitled to reasonable attorney fees in the amount of \$12,402.75.!” Dated this 14th day of January, 2026. BY THE C Dustin B. Pea U.S. District Magistrdte Judge For example, Iwasaki states “Mr. Peterson billed 6.7 hours at \$500 (\$3,350) for this single discovery motion” without citing to the date of the filing to which he refers.

Further, the time report does not evidence a singular billing for 6.7 hours of work by Mr. Peterson. See ECF No. 37; ECF No. 36-1. If Plaintiff reached this amount by combining billing dates, he does not indicate which dates he has combined for purposes of his calculations. ‘0 For example, the majority of Breeze’s Short Form Discovery Motion contains case citations for legal authorities on the apex doctrine factors.

See ECF No. 20 at 2. In reaching this calculation the court considers Breeze’s billing “narrative” and combines billing amounts claimed by Defendant on: June 27, 2025 (0.10/\$34.50), June 30, 2025 (1.60/\$552.00), July 1, 2025 (1.80/\$621.00), July 1, 2025 (0.50/\$250.00), July 7, 2025 (0.50/\$172.50), July 8, 2025 (2.20/\$759.00), July 8, 2025 (0.80/\$450.00), July 9, 2025 (0.50/\$172.50), July 9, 2025 (0.30/\$150.00), July 21, 2025 (0.50/\$250.00).

ECF No. 36, Defendant’s Motion for Attorney Fees. -3-