

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Nevada Fleet, Inc. v. Federal Express Corporation, et al.

Nevada Fleet · No. 2:17-cv-01732-DAD-CSK · Decided September 4, 2025

SUMMARY

The United States District Court for the Eastern District of California ordered Nevada Fleet to pay Federal Express Corporation and Automotive Rental, Inc. \$25,562.22 in reasonable expenses under Federal Rule of Civil Procedure 37(b)(2)(C). The award arose from Nevada Fleet’s failure to produce its retained expert for deposition in violation of a court order. The court reduced the claimed fees based on work performed before the relevant deposition cancellation and adjusted certain hourly rates to reflect prevailing Sacramento rates.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Chi Soo Kim
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	September 4, 2025
DOCKET	2:17-cv-01732-DAD-CSK
DISPOSITION	other
PROCEDURAL POSTURE	Following an earlier order granting Defendants' motion for sanctions under Federal Rule of Civil Procedure 37 for Plaintiff's failure to produce its retained expert for deposition, the court determined the amount of reasonable expenses, including attorney's fees and costs.
STANDARD OF REVIEW	The district court has broad discretion to determine the reasonableness of attorney's fees, but must provide a concise and clear explanation for the fee award. The lodestar method applies, using reasonable hours multiplied by a reasonable hourly rate.
PRECEDENTIAL VALUE	unknown

TOPICS

- sanctions
- attorney fees
- costs
- discovery dispute
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. What amount of expenses, including attorney's fees and costs, should be awarded under Federal Rule of Civil Procedure 37(b)(2)(C) for Plaintiff's failure to produce its expert for deposition?
2. What attorney hours and hourly rates were reasonable under the lodestar method and prevailing Sacramento market rates?
3. Whether Defendants were entitled to cancellation costs and expenses incurred before the conduct that caused them to seek court intervention.

HOLDINGS

1. Because Plaintiff failed to produce its expert in violation of the court's discovery order and lacked substantial justification, an award of reasonable expenses incurred in making the sanctions motion, including attorney's fees, was mandatory.
2. The court awarded 50.5 hours of attorney time that were reasonably incurred in meeting and conferring, seeking court intervention, and preparing the sanctions motion, but excluded 8.9 hours incurred before the cancellation of the March 27, 2025 deposition.
3. The requested hourly rates of \$670.63 for Ryan Becker and \$610.50 for Nathan Buchter were reasonable, while the rates for Josephine Wenson and Douglas Hicks were reduced to \$310 and \$290 per hour, respectively, to reflect prevailing Sacramento rates for attorneys of comparable skill, experience, and reputation.
4. Defendants were awarded \$25,562.22 in reasonable expenses, consisting of specified attorney hours at approved rates, and were not awarded the \$800 in cancellation fees.

KEY QUOTATIONS

“awarding reasonable expenses in making the motion, including attorneys’ fees, is mandatory here” (at 2)

“Under the “lodestar” method, the number of hours reasonably expended is multiplied by a reasonable hourly rate.” (at 2-3)

“Plaintiff is ordered to pay to Defendants within twenty-one (21) days from the date of this order.” (at 5-6)

FACTUAL BACKGROUND

Nevada Fleet failed to produce its retained expert, Carlos Gurrola, for a deposition despite notice, the parties' agreement on deposition dates, and an existing discovery order requiring production. Defendants incurred attorney time in attempting to schedule and prepare for the deposition, meeting and conferring, seeking court intervention, and moving for sanctions. Defendants also sought \$800 in cancellation fees related to an earlier deposition.

PROCEDURAL HISTORY

The court previously found that Nevada Fleet violated a discovery order by failing to produce its retained expert, Carlos Gurrola, for deposition, and granted Defendants' sanctions motion. Because Defendants had not initially provided sufficient information to calculate expenses, the court ordered them to submit their reasonable expenses. After reviewing Defendants' supplemental expense submission, the court awarded \$25,562.22 and ordered Plaintiff to pay within twenty-one days and file notice of payment.

DISPOSITION

other

CASES CITED

- Gates v. Deukmejian, 987 F.2d 1392, 1398 (9th Cir. 1992)
- Carter v. Caleb Brett LLC, 757 F.3d 866, 868 (9th Cir. 2014)
- Gonzalez v. City of Maywood, 729 F.3d 1196, 1202 (9th Cir. 2013)
- Sorenson v. Mink, 239 F.3d 1140, 1145 (9th Cir. 2001)
- Camacho v. Bridgeport Fin., Inc., 523 F.3d 973, 979 (9th Cir. 2008)
- Barjon v. Dalton, 132 F.3d 496, 500, 502 (9th Cir. 1997)
- Am. Multi-Cinema, Inc. v. Manteca Lifestyle Ctr., LLC, 2024 WL 1312209, at *3 (E.D. Cal. Mar. 26, 2024)
- Gong-Chun v. Aetna Inc., 2012 WL 2872788, at *23 (E.D. Cal. July 12, 2012)
- Velasco v. Mis Amigos Meat Market, Inc., 2013 WL 5755054, at *12 n.4 (E.D. Cal. Oct. 23, 2013)
- Unit 53, Inc. v. Run Roadlines, Inc., 2025 WL 373637, at *2 (E.D. Cal. Feb. 3, 2025)

OPINION

Nevada Fleet LLC v. Fedex Corp.

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 NEVADA FLEET, INC, Case No. 2:17-cv-01732-DAD-CSK 12 Plaintiff,

13 v. ORDER GRANTING RULE 37 EXPENSES

14 FEDERAL EXPRESS

CORPORATION, et al., 15 (ECF Nos. 214, 227) Defendants. 16 17 On June 12, 2025, the Court granted Defendants Federal Express Corporation 18 (“FedEx”) and Automotive Rental, Inc.’s motion for sanctions for Plaintiff Nevada Fleet, 19 LLC’s failure to produce its retained expert, Mr. Carlos Gurrola, for deposition in violation 20 of the Court’s order. 6/12/2025 Order (ECF No. 214).1 Because Defendants had not 21 provided the Court with sufficient information to determine the amount of expenses 22 pursuant to Federal Rule of Civil Procedure 37(b)(2)(C), the Court ordered Defendants to 23 file and submit its reasonable expenses, including attorney’s fees. 6/12/2025 Order at 6- 24 7. Defendants have now done so. Defs. Expenses (ECF No. 227).

Plaintiff was not 25 entitled to a response. See 6/12/2025 Order at 7-8. 26 / / / 27 1 This matter proceeds before the undersigned pursuant to 28 U.S.C. § 636, Fed. R. 28 Civ. P. 72, and Local Rule 302(c)(1).

1 I. DISCUSSION2

2 As the Court has previously ordered, under Rule 37, awarding reasonable 3 expenses in making the motion, including attorneys' fees, is mandatory here as the 4 Court found no substantial justification for Plaintiff's failure to produce its expert, Mr. 5 Gurrola, for deposition despite Defendants' noticing of his deposition, the parties' mutual 6 agreement to deposition dates, and in violation of the Court's April 28, 2025 discovery 7 order. See Fed. R. Civ. P. 37(b)(2)(C); 6/12/2025 Order at 5-6. 8 The Ninth Circuit affords district courts broad discretion in determining the 9 reasonableness of fees. *Gates v. Deukmejian*, 987 F.2d 1392, 1398 (9th Cir. 1992). 10 While the amount of a fee award is discretionary, the district court must "provide a 11 concise but clear explanation of its reasons for the fee award." *Carter v. Caleb Brett LLC*, 12 757 F.3d 866, 868 (9th Cir. 2014). The Ninth Circuit utilizes the "lodestar" method for 13 assessing reasonable attorney's fees. *Gonzalez v. City of Maywood*, 729 F.3d 1196, 14 1202 (9th Cir. 2013). Under the "lodestar" method, the number of hours reasonably 15 expended is multiplied by a reasonable hourly rate. *Id.* Reasonable hourly rates are 16 determined by the "prevailing market rates in the relevant community." *Sorenson v. Mink*, 17 239 F.3d 1140, 1145 (9th Cir. 2001). "[T]he established standard when determining a 18 reasonable hourly rate is the 'rate prevailing in the community for similar work performed 19 by attorneys of comparable skill, experience, and reputation.'" *Camacho v. Bridgeport 20 Fin., Inc.*, 523 F.3d 973, 979 (9th Cir. 2008) (quoting *Barjon v. Dalton*, 132 F.3d 496, 502 21 (9th Cir. 1997)). Generally, "the relevant community is the forum in which the district 22 court sits." *Camacho*, 523 F.3d at 979 (quoting *Barjon*, 132 F.3d at 500). Here, the 23 relevant community is Sacramento, California, which is where this district court is 24 located. 25 Defendants seek attorney's fees in the amount of \$32,021.23 for four attorneys 26 and a research assistant from Fox Rothschild for a total of 59.4 hours in connection with 27 2 Additional background on Defendants' motion for sanctions is provided in the Court's 28 order. See 6/12/2025 Order. 1 Plaintiff's failure to produce its expert for his deposition. Nathan M. Buchter Decl. ¶¶ 6- 2 24, 28 (ECF No. 227-1). Defendants state they are seeking attorney's fees incurred 3 between February 2025 to May 2025 for scheduling and preparing for Mr. Gurrola's 4 deposition, moving to compel Mr. Gurrola's deposition, meeting and conferring with 5 Plaintiff's counsel of record, and moving for discovery sanctions for Plaintiff's refusal to 6 produce Mr. Gurrola for his deposition. *Id.* ¶ 26. Defendants also seek costs in the 7 amount of \$800 for late cancellation fees for a court reporter and videographer related to 8 Mr. Gurrola's February 21, 2025 deposition. *Id.* ¶¶ 32-33. Defendants' attorney fees are 9 based on a \$670.63 hourly rate for 7.9 hours by attorney Ryan Becker; a \$610.50 hourly 10 rate for 30.5 hours by attorney Nathan Buchter; a \$430.12 hourly rate for 2.5 hours by 11 attorney Josephine Wenson; a \$402.38 hourly rate for 15.5 hours by attorney Douglas 12 Hicks; and \$263.63 hourly rate for 3.0 hours by non-attorney research

assistant Teresa 13 Cherepski. Defs. Expenses at 2-3; Buchter Decl. ¶ 28 & Exh. A. Defendants also 14 indicate they negotiated a 7.5% reduction from all standard rates of attorneys and staff 15 for this action. Defs. Expenses at 2. 16 The Court finds that 50.5 hours is a reasonable amount of time to meet and 17 confer with Plaintiff's counsel regarding Mr. Gurrola's deposition, seek court intervention, 18 and research and draft the motion for sanctions, and are properly awarded here. See 19 Fed. R. Civ. P. 37(b)(2)(C). The Court further notes that Defendants do not seek 20 expenses after the filing of their sanctions motion on May 30, 2025 (e.g., expenses 21 associated with submitting the supplemental brief for expenses). The Court does not 22 find, however, that expenses sought for work and expenses before the cancellation of 23 Mr. Gurrola's March 27, 2025 deposition, which led Defendants to seek court 24 intervention, should be awarded. See Fed. R. Civ. P. 37(b)(2)(C) (awarding reasonable 25 expenses "caused by the failure" to comply). The Court therefore declines to award 8.9 26 hours sought for work before the cancellation of Mr. Gurrola's March 27, 2025 deposition 27 and declines to award the \$800 in cancellation fees from the February 21, 2025 28 deposition. See Buchter Decl. ¶ 32 & Exh. A at 1 (e.g., billing entries for work before the 1 cancellation include deposition preparation). 2 The Court next examines the hourly rates requested. Defendants provide case 3 law from the Eastern District of California to support their requested rates based on 4 prevailing Sacramento rates for attorneys with comparable skill, experience, and 5 reputation. Defs. Expenses at 2-3. Defendants' counsel Ryan Becker is a partner at the 6 law firm Fox Rothschild and has been practicing law for approximately 18 years since 7 2007. Buchter Decl. ¶¶ 6-7. Defendants' counsel Nathan Buchter is a Partner at Fox 8 Rothschild and has been practicing law for approximately 10 years since 2014. Id. ¶¶ 11- 9 12. The Court finds that the requested hourly rate of \$670.63 for Mr. Becker, a partner 10 attorney with eighteen years of experience, and the hourly rate of \$610.50 for Mr. 11 Buchter, a partner attorney with ten years of experience, to be reasonable and reflect the 12 prevailing market rate in Sacramento for attorneys of comparable skill, experience, and 13 reputation. See, e.g., *Am. Multi-Cinema, Inc. v. Manteca Lifestyle Ctr., LLC*, 2024 WL 14 1312209, at *3 (E.D. Cal. Mar. 26, 2024) (awarding \$700 per hour for partners); *Gong- 15 Chun v. Aetna Inc.*, 2012 WL 2872788, at *23 (E.D. Cal. July 12, 2012) (awarding 16 between \$490 and \$695 per hour for senior counsel and partners); *Velasco v. Mis 17 Amigos Meat Market, Inc.*, 2013 WL 5755054, at *12 n.4 (E.D. Cal. Oct. 23, 2013) 18 (approving a partner hourly rate of \$650). 19 The Court does not find, however, the requested hourly rates for Ms. Wenson 20 (\$430.12) and Mr. Hicks (\$402.38) to be reasonable for the relevant community as the 21 requested rates reflect the rates for attorneys with more experience. See *Unit 53, Inc. v. 22 Run Roadlines, Inc.*, 2025 WL 373637, at *2 (E.D. Cal. Feb. 3, 2025) (awarding \$370 for 23 an associate with over three years of experience and \$310 for an associate with over 24 two years of experience); *Am. Multi-Cinema*, 2024 WL 1312209 at *3 (awarding \$375 25 per hour for associate attorneys); *Gong-Chun*, 2012 WL 2872788 at *23 (awarding 26 between \$300 and \$420 per hour for associates); *Velasco*, 2013 WL 5755054 at *12 n.4 27 (approving a junior associate hourly rate of \$395). Defendants' counsel Josephine 28

Wenson is a former associate at Fox Rothschild and has been practicing for 1 || approximately two years since 2023. /d. 15. Defendants' counsel Douglas Hicks is an 2 || associate at Fox Rothschild and has been practicing for approximately nine months 3 || since his 2024 law school graduation. /d. 18. The Court therefore reduces Ms. Wenson 4 | rate to \$310 per hour and Mr. Hicks' rate to \$290 per hour to reflect the prevailing market 5 || rate in Sacramento for attorneys of comparable skill, experience, and reputation. See 6 | Unit 53, Inc., 2025 WL 373637, at *2; Gong-Chun, 2012 WL 2872788 at *23. Because 7 || the only expenses sought for non-attorney Ms. Cherepski was for her deposition 8 || preparation work before the cancellation of Mr. Gurrola's March 27, 2025 deposition, the 9 | Court need not examine the hourly rate requested for Ms. Cherepski. See Buchter Decl., 10 | Exh. Aat1. 11 Pursuant to Rule 37(b)(2)(C), the Court therefore orders Plaintiff to pay 12 || Defendants' reasonable expenses in the amount of \$25,562.22, which represents 7.5 13 | hours for Mr. Becker at a \$670.63 hourly rate; 25 hours for Mr. Buchter at a \$610.50 14 | hourly rate; 2.5 hours for Ms. Wenson at a \$310 hourly rate; and 15.5 hours for Mr. Hicks 15 | at a \$290 hourly rate. Plaintiff is ordered to pay to Defendants within twenty-one (21) 16 | days from the date of this order.

17 | UL CONCLUSION

18 In conclusion, IT |S HEREBY ORDERED THAT: 19 1. Defendants are awarded their reasonable expenses in the amount of 20 \$25,562.22, which must be paid by Plaintiff to Defendants within twenty-one 21 (21) days of the date of this order; and 22 2. Plaintiff shall simultaneously file a notice once payment is made. 23 24 | Dated: September 4, 2025 C i s

25 CHI SOO KIM

26 UNITED STATES MAGISTRATE JUDGE

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