

**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

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 expended is multiplied by a reasonable hourly rate. *Id.* Reasonable hourly rates are 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 reasonable hourly rate is the ‘rate prevailing in the community for similar work performed by attorneys of comparable skill, experience, and reputation.’” *Camacho v. Bridgeport 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 court sits.” *Camacho*, 523 F.3d at 979 (quoting *Barjon*, 132 F.3d at 500). Here, the relevant community is Sacramento, California, which is where this district court is located. Defendants seek attorney’s fees in the amount of \$32,021.23 for four attorneys and a research assistant from Fox Rothschild for a total of 59.4 hours in connection with Additional background on Defendants’ motion for sanctions is provided in the Court’s 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 between February 2025 to May 2025 for scheduling and preparing for Mr. Gurrola’s deposition, moving to compel Mr. Gurrola’s deposition, meeting and conferring with Plaintiff’s counsel of record, and moving for discovery sanctions for Plaintiff’s refusal to produce Mr. Gurrola for his deposition. *Id.* ¶ 26. Defendants also seek costs in the amount of \$800 for late cancellation fees for a court reporter and videographer related to Mr. Gurrola’s February 21, 2025 deposition. *Id.* ¶¶ 32-33. Defendants’ attorney fees are based on a \$670.63 hourly rate for 7.9 hours by attorney Ryan Becker; a \$610.50 hourly rate for 30.5 hours by attorney Nathan Buchter; a \$430.12 hourly rate for 2.5 hours by attorney Josephine Wenson; a \$402.38 hourly rate for 15.5 hours by attorney Douglas Hicks; and \$263.63 hourly rate for 3.0 hours by non-attorney research assistant Teresa Cherepski. Defs. Expenses at 2-3; Buchter Decl. ¶ 28 & Exh. A. Defendants also indicate they negotiated a 7.5% reduction from all standard rates of attorneys and staff for this action. Defs. Expenses at 2. 16 The Court finds that 50.5 hours is a reasonable amount of time to meet and confer with Plaintiff’s counsel regarding Mr. Gurrola’s deposition, seek court intervention, and research and draft the motion for sanctions, and are properly awarded here. See Fed. R. Civ. P. 37(b)(2)(C). The Court further notes that Defendants do not seek expenses after the filing of their sanctions motion on May 30, 2025 (e.g., expenses associated with submitting the supplemental brief for expenses). The Court does not find, however, that expenses sought for work and expenses before the cancellation of Mr. Gurrola’s March 27, 2025 deposition, which led Defendants to seek court intervention, should be awarded. See Fed. R. Civ. P. 37(b)(2)(C) (awarding reasonable expenses “caused by the failure” to comply). The Court therefore declines to award 8.9 hours sought for work before the cancellation of Mr. Gurrola’s March 27, 2025 deposition and declines to award the \$800 in cancellation fees from the February 21, 2025 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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