

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Nationwide Mutual Ins. Co. v. Zurich American Ins. Co.

No. 1:21-cv-00944-TLN-CSK, United States District Court for the Eastern District of California (April 18, 2025)

SUMMARY

The United States District Court for the Eastern District of California considered objections to Defendants’ Bill of Costs in an insurance coverage dispute. The Court overruled the objections and granted the Bill of Costs in the amount of \$6,369.25, including mediator fees and an attorney service fee.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Troy L. Nunley
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	April 18, 2025
DOCKET	1:21-cv-00944-TLN-CSK
DISPOSITION	other
PROCEDURAL POSTURE	The court considered Defendants and Counter-Claimants' Bill of Costs and Plaintiffs' objections to requested mediator and attorney-service fees.
STANDARD OF REVIEW	The taxation of costs under Federal Rule of Civil Procedure 54(d)(1) is discretionary, subject to a presumption in favor of awarding costs to the prevailing party. A district court that declines to award costs must specify its reasons; it need not specify reasons when following the presumption and taxing costs.
PRECEDENTIAL VALUE	unpublished district court order

TOPICS

- costs
- civil procedure
- mediation
- insurance
- commercial litigation

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Plaintiffs' objection to taxing the requested mediator fees should be sustained.
2. Whether Plaintiffs' objection to taxing the Ace Attorney Service fee for insufficient documentation should be sustained.
3. Whether Defendants' Bill of Costs should be granted under Federal Rule of Civil Procedure 54(d)(1), 28 U.S.C. § 1920, and Eastern District of California Local Rule 292.

HOLDINGS

1. Rule 54(d)(1) creates a presumption that the prevailing party may recover costs other than attorney's fees, subject to the limitations in 28 U.S.C. § 1920 and Eastern District of California Local Rule 292.
2. The objection to the requested mediator fees was overruled, and the mediator-fee request was included in the granted Bill of Costs.
3. The objection to the \$231.75 Ace Attorney Service fee was overruled because Defendants provided supplemental documentation supporting the requested fee.

KEY QUOTATIONS

“By its terms, the rule creates a presumption in favor of awarding costs to a prevailing party, but vests in the [Court] discretion to refuse to award costs.” (at 1)

“If the Court declines to award costs to the prevailing party, the Court must “specify reasons” for denying costs.” (at 1)

“Not only is the instant case not a prison civil rights case, but Plaintiffs fail to discuss this Court’s Local Rules or cite any authority from this District.” (at 2)

FACTUAL BACKGROUND

Defendants sought \$6,369.25 in costs, including \$3,175 in mediator fees and \$231.75 for an Ace Attorney Service fee. Plaintiffs argued that mediator fees could not be taxed and that the attorney-service fee lacked sufficient supporting information and documentation. Defendants submitted supplemental documentation supporting the attorney-service fee request.

PROCEDURAL HISTORY

After the underlying litigation, Defendants and Counter-Claimants Zurich American Insurance Company and American Guarantee and Liability Insurance Company filed a Bill of Costs seeking \$6,369.25. Plaintiffs and Counter-Defendants Nationwide Mutual Insurance Company and Amco Insurance Company objected to a \$3,175 mediator fee and a \$231.75 Ace Attorney Service fee. Defendants responded with supplemental documentation, and the court overruled both objections and granted the Bill of Costs.

DISPOSITION

other

CASES CITED

- Ass'n of Mexican-Am. Educators v. State of Cal., 231 F.3d 572, 591 (9th Cir. 2000)
- Save Our Valley v. Sound Transit, 335 F.3d 932, 945 (9th Cir. 2003)
- Crane-McNab v. Cnty. of Merced, No. 1:08-cv-1218-WBS-SMS, 2011 WL 794284, at *1 (E.D. Cal. Mar. 1, 2011)
- Brisco-Wade v. Carnahan, 297 F.3d 781, 782 (8th Cir. 2002)
- English v. Colo. Dep't of Corr., 248 F.3d 1002, 1013 (10th Cir. 2001)

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