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9 UNITED STATES DISTRICT COURT  
10 EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION

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12 LA-KEBBIA WILSON and CHARLES  
SMITH,

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Plaintiffs,

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v.

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16 CITY OF FRESNO, HOWARD LACY,  
JEFFREY CARDELL, JENNIFER CLARK,  
17 KELLI FURTADO, TIMOTHY BURNS,  
KEVIN WATKINS, ANDREIA CUEVAS,  
18 DEL ESTABROOKE, and DOES 1 to 100,  
inclusive,

19

Defendant.

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Case No. 1:19-cv-01658-KES-BAM

**NOTICE OF MOTION AND MOTION TO  
TAX COSTS**

Trial: February 24, 2026

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TO ALL PARTIES AND TO THEIR RESPECTIVE ATTORNEYS OF RECORD

22

HEREIN:

23

24 The City of Fresno (the “City”) hereby moves for an order taxing certain costs submitted  
by Plaintiffs they are not permissible under 28 U.S.C. § 1920, and therefore, are not recoverable.

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26 This request is based on this Notice of Motion and Motion to Tax Costs, as well as any matter that  
27 may be submitted in Reply to any opposition filed.

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The City respectfully requests that the Court strike costs in the total amount of \$10,624.72,

1 summarized as follow:

- 2 • Trial supplies in the amount of \$426.10
- 3 • Witness costs as noted below in the amount of \$1,766.94
- 4 • Other Costs – itemized in the amount of \$8,431.68.

5 **I.**  
6 **INTRODUCTION**

7 The City moves the Court to tax Plaintiffs’ Bill of Costs as to the following impermissible  
8 cost items:

- 9 • Trial supplies in the amount of \$426.10
- 10 • Witness costs as noted below in the amount of \$1,766.94
- 11 • Other Costs – itemized in the amount of \$8,431.68

12 Consistent with 28 U.S.C. § 1920, the City respectfully submits that the foregoing costs are not  
13 permissible and should be taxed in the collective amount of \$10,624.72.

14 **II.**  
15 **LAW AND ARGUMENT**

16 **A. Only Those Costs Enumerated By Statute Are Permissible.**

17 28 U.S.C. § 1920 delineates which costs are allowable in federal court. These costs are:

- 18 1. Fees of the clerk and marshal
- 19 2. Fees for the court reporter for all or any part of the stenographic  
20 transcript necessarily obtained for use in the case
- 21 3. Fees and disbursements for printing and witnesses
- 22 4. Fees for exemplification and copies of papers necessarily obtained for  
23 use in the case
- 24 5. Docket fees pursuant to 28 U.S.C. § 1923
- 25 6. Compensation of court appointed experts, compensation of  
26 interpreters, and salaries, fees, expenses, and cots of special  
27 interpretation services pursuant to 28 U.S.C. § 1828.

28 The local rules for the Eastern District of California provide that costs shall be taxed in conformity  
with the provisions of 28 U.S.C. § 1920. And “a district court may not tax costs beyond those  
authorized by § 1920.” Alexander Mfg. v. Ill. Union Ins. Co., 688 F.Supp.2d 1170, 1176 (D. Or.  
2010), emphasis added.

1 **B. Numerous Costs Should Be Taxed.**

2 1. ***Expert Retainer Fee on Outside Investigation***

3 Absent a contract or explicit statute to the contrary, witness fees, including fees for most  
4 experts (excluding court appointed experts) are limited to the amount of \$40 per day pursuant to  
5 28 U.S.C. § 1821 (b). (See First Nat'l Mortg. Co. v. Fed. Realty Inv. Trust, 631 F.3d 1058, 1070  
6 (9th Cir. 2011) “federal law allows a defendant to recover only forty dollars per day per witness”;  
7 Association of Flight Attendants v. Horizon Air Indus., 976 F.2d 541, 552 (9th Cir. 1992) “Since  
8 [expert] was not court appointed, the union is entitled only to the statutory amount”.)

9 Based on the language of both statutes, and caselaw interpreting them with respect to  
10 experts, a retainer fee for “Expert Witness on Outside Investigations” in the amount of \$6,000  
11 should be taxed, particularly as there was no court ordered expert.

12 2. ***Parking Fees and Meals***

13 Parking charges are nonrecoverable. (Duckworth v. Whisenant, 97 F.3d 1393, 1399 (11th  
14 Cir. 1996); see Terry v. Allstate Ins. Co., 2007 U.S. Dist. LEXIS 81051 (E.D. Cal. 2007) at \*13-  
15 14 [“with respect to travel expenses<sup>1</sup> incurred by Allstate’s attorney’s the court concludes that  
16 Allstate is not entitled to recovery of such costs under § 1920]”; United States v. Shasta Servs.,  
17 Inc., 2007 U.S. Dist. LEXIS 40590 (E.D. Cal. 2007) at \*3 [“it is well establishes that an attorney’s  
18 expenses in attending...court proceedings are not recoverable as costs”].)

19 Considering parking fees and meal charges are not listed under § 1920, nor provided for by  
20 statute, these costs, totaling \$684.18 should be taxed.

21 3. ***Mediation Fee***

22 “Nothing in 28 U.S.C. § 1920 provides for the cost of a mediator.” (Sea Coast Foods, Inc.  
23 v. Lu-Mar Lobster & Shrimp, Inc., 260 F.3d 1054, 1061 (9th Cir. 2001); Alexander Mfg. v. Ill.  
24 Union Ins. Co., 688 F.Supp.2d 1170, 1176 (D. Or. 2010).) As such, “Plaintiffs’ share of the  
25 Mediation Fee for Judge Simpson” in the amount of \$1,666.66 should taxed.

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28 <sup>1</sup> Travel expenses here were mileage, meals, parking and bridge toll costs.

1           4.       ***England Logistics Invoices***

2           England Logistics appears to be a carrier service. Assuming that is the case, those fees are  
3 not a permissible cost. (See Alexander Mfg. v. Ill. Union Ins. Co., 688 F.Supp.2d 1170, 1177 (D.  
4 Or. 2010) [“cannot recoup costs for courier, mail telephone, and computerized legal research  
5 charges because they are outside the scope of §1920”]; Graff v. City of Tehachapi, 2016 U.S. Dist.  
6 LEXIS 126663 (E.D. Cal. 2016) at \*12 [“prevailing parties cannot recover costs for courier, mail,  
7 or telephone charges because they are outside the scope of § 1920.”]; Kraft v. Arden, 2009 U.S.  
8 Dist. LEXIS 1527 (D. Or. 2009) at \*25; Currie v. Shaw, 2014 U.S. Dist. LEXIS 96076 (D. Or.  
9 2014) at \*19.) Accordingly the City moves to tax the England Logistic costs in the amount of  
10 \$60.40.

11           5.       ***Notepads, Office Supplies and Cases of Water***

12           Notepads, office supplies and cases of water are not delineated in section 1920. Since “a  
13 district court may not tax costs beyond those authorized by § 1920”, costs associated with trial  
14 supplies, notepads and water are properly taxed. (Alexander Mfg. v. Ill. Union Ins. Co., 688  
15 F.Supp.2d 1170, 1176 (D. Or. 2010), emphasis added.) Accordingly, the City moves to tax the  
16 total amount of \$446.54.

17           6.       ***Certain Witness Costs Should Be Taxed.***

18           Plaintiffs seek to recover certain costs for witnesses that were either under their control  
19 and/or that were never called at trial. The following witnesses were not called as witnesses, and  
20 those costs should be taxed:

- 21           •       Teresa Daniele - \$293.94
- 22           •       Linda Doe - \$507.12
- 23           •       Esko Sippola - \$297.84
- 24           •       Leticia Massoyan - \$181.13

25           In addition, George Wilson, who was Plaintiff Wilson’s spouse, was clearly under her control so  
26 the costs of \$486.91 is not reasonable. As such, the City moves to tax the total costs for witness  
27 costs in the amount of \$1,766.94.

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**III.**  
**CONCLUSION**

For the foregoing reasons, the City hereby moves to tax costs in the total amount of \$10,624.72.

Dated: March 31, 2026

Respectfully submitted,

WHITNEY, THOMPSON & JEFFCOACH LLP

By:           /s/ Mandy Jeffcoach            
Mandy Jeffcoach  
Attorneys for Defendant CITY OF FRESNO

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**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF FRESNO**

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Fresno, State of California. My business address is 970 W. Alluvial Ave., Fresno, CA 93711.

On March 31, 2026, I served true copies of the following document(s) described as **NOTICE OF MOTION AND MOTION TO TAX COSTS** on the interested parties in this action as follows:

**SEE ATTACHED SERVICE LIST**

**BY E-MAIL OR ELECTRONIC TRANSMISSION:** I caused a copy of the document(s) to be sent from e-mail address nlee@wtjlaw.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on March 31, 2026, at Fresno, California.

/s/ Nicole Lee  
\_\_\_\_\_  
Carrie Amesquita

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