

# **Tentative Rulings for July 21, 2026**

## **Department 7**

**To request oral argument, you must notify Judicial Secretary  
Crystal Marias at (760) 904-5722  
and inform all other counsel no later than 4:30 p.m.**

This court follows California Rules of Court, Rule 3.1308 (a) (1) for tentative rulings (see Riverside Superior Court Local Rule 3316). Tentative Rulings for each law & motion matter are posted on the Internet by 3:00 p.m. on the court day immediately before the hearing at [Riverside Superior Court-Tentative Rulings](#). If you do not have Internet access, you may obtain the tentative ruling by telephone at (760) 904-5722.

To request oral argument, no later than 4:30 p.m. on the court day before the hearing you must (1) notify the judicial secretary for Department 7 at (760) 904-5722 and (2) inform all other parties of the request and of their need to appear remotely, as stated below. If no request for oral argument is made by 4:30 p.m., the tentative ruling **will become the final ruling** on the matter effective the date of the hearing. **UNLESS OTHERWISE NOTED, THE PREVAILING PARTY IS TO GIVE NOTICE OF THE RULING.**

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- Call-in Numbers: 1-833-568-8864 (Toll Free), 1-669-254-5252,  
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- Meeting Number: **161 766 6465**

Please **MUTE** your phone until your case is called and it is your turn to speak. It is important to note that you must call fifteen (15) minutes prior to the scheduled hearing time to check in or there may be a delay in your case being heard.

**Riverside Superior Court provides official court reporters for hearings on law and motion matters only for litigants who have been granted fee waivers and only upon their timely request. (See General Administrative Order No. 2021-19-1) Other parties desiring a record of the hearing must retain a reporter pro tempore.**

1.

| CASE #      | CASE NAME                                           | HEARING NAME                                            |
|-------------|-----------------------------------------------------|---------------------------------------------------------|
| CVRI2306248 | IGARASHI vs<br>RIVERSIDE UNIFIED<br>SCHOOL DISTRICT | MOTION FOR SUMMARY JUDGMENT<br>ON 2ND AMENDED COMPLAINT |

**Tentative Ruling:** Defendant Riverside Unified School District's Motion for Summary Judgment/Adjudication is denied.

#### REQUEST FOR JUDICIAL NOTICE:

Plaintiff requests judicial notice of the SAC. The request is granted pursuant to Evid. Code § 452(d).

Any party may move for summary judgment in any action or proceeding if it is contended that the action has no merit or that there is no defense to the action or proceeding. (CCP § 437c(a).) "A defendant's motion for summary judgment should be granted if no triable issue exists as to any material fact and the defendant is entitled to a judgment as a matter of law." (*Kahn v. East Side Union High School Dist.* (2003) 31 Cal. 4th 990, 1002-1003.) "The moving party bears the burden of production to make a prima facie showing of the nonexistence of any triable issue of material fact." (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal. 4th 826, 850.) Once the moving party's burden has been met, the burden shifts to the opposing party to make a prima facie showing of the existence of a triable issue of material fact. (*Aguilar, supra*, 25 Cal. 4th at 850.) The moving party's evidence must be strictly construed, while the opposing party's evidence must be liberally construed. (*Binder v. Aetna Life Ins. Co.* (1999) 75 Cal.App.4th 832, 838.) "Any doubts as to the propriety of granting the motion are resolved in favor of the party opposing the motion." (*American Airline v. Sheppard, Mullin, Richter & Hampton* (2002) 96 Cal. App. 4th 1017, 1048.)

Pursuant to CCP §437c(f)(1), a party may move for summary adjudication as to one or more causes of action within an action, one or more affirmative defenses, claims for damages or issues of duty. "Summary adjudication motions are procedurally identical to summary judgment motions." (*Serri v. Santa Clara University* (2014) 226 Cal. App. 4th 830, 859.) A motion for summary adjudication shall be granted only if it completely disposes of a cause of action, affirmative defense, claim for damages or issue of duty, which has no merit. (*Smith v. Wells Fargo Bank, N.A.* (2005) 135 Cal. App. 4th 1463, 1472.)

#### NEGLIGENCE:

The elements of a cause of action for negligence are: (1) a legal duty to use due care; (2) breach of such duty; (3) the breach was the proximate or legal cause of resulting injuries. (*Ladd v. County of San Mateo* (1996) 12 Cal. 4th 913, 917.) Under the California Claims Act, Gov. Code § 810 *et seq.*, "a public entity is not liable for injury arising from an act or omission except as provided by statute." (*See Creason v. Department of Health Services* (1998) 18 Cal.4th 623, 630-31.) Here, the Negligence cause of action is based on Gov. Code §§ 815.2 and 820. Section 815.2 provides that a

public entity may be vicariously liable for injury proximately caused by its employee's act or omission within the scope of employment if the act or omission would otherwise have given rise to a cause of action against the employee. Gov. Code § 820 provides: "Except as otherwise provided by statute (including Section 820.2), a public employee is liable for injury caused by his act or omission to the same extent as a private person." (Gov. Code § 820(a).)

The District argues that the first cause of action fails because Plaintiff cannot establish a duty. The threshold element of a cause of action for negligence is the existence of a duty to use due care toward an interest of another that enjoys legal protection against unintentional invasion." (*Bily v. Arthur Young & Co.* (1992) 3 Cal.4th 370, 397.) The existence of a duty of care, required for any negligence claim, is a question of law, decided on a case-by-case basis. (*M.W. v. Panama Buena Vista Union School District* (2003) 110 Cal.App.4th 508, 516.)

California law imposes an affirmative duty to supervise the conduct of children on school grounds. (*Dailey v. Los Angeles Unified School Dist.* (1970) 2 Cal.3d 741, 747.) "While school districts and their employees have never been considered insurers of the physical safety of students, California law has long imposed on school authorities a duty to 'supervise at all times the conduct of the children on the school grounds and to enforce those rules and regulations necessary to their protection.'" (*C.A. v. William S. Hart Union High School Dist.* (2012) 53 Cal. 4th 861, 869.) "The existence of a duty of care of a school district toward a student depends, in part, on whether the particular harm to the student is reasonably foreseeable." (*M.W.*, *supra*, 110 Cal. App. 4th at 518-519.) "Foreseeability is determined in light of all the circumstances and does not require prior identical events or injuries." (*Id* at 519.) Thus, a school district is negligent "if a reasonably prudent person would foresee that injuries of the same general type would be likely to happen in the absence of [adequate] safeguards." (*Id*; citing *Taylor v. Oakland Scavenger Co.* (1941) 17 Cal. 2d 594, 600.)

Plaintiff alleges that on or about January 20, 2023, he was assaulted for the second time by a student who previously threw a basketball at his face on December 16, 2022, when the student intentionally collided with Plaintiff while lining up after recess due to the District's policy of requiring students to rush to get into line. (SAC, ¶ 8.) It is undisputed that on January 20, 2023, when Plaintiff jogged or rushed to line up after recess, he collided with Student Z, who fell on Plaintiff's leg. (UMF Nos. 32, 33.) Plaintiff was instructed by the recess monitor to go to the main office, where he was then instructed to go to the health office. (UMF Nos. 38, 40.) While in the health office, Plaintiff told Ms. Varela, Woodcrest's Health Assistant that his leg hurt after Student Z landed on his ankle, and that something was wrong with his foot. (UMF Nos. 5, 42.) Ms. Varela provided Plaintiff with an ice pack and instructed him to leave the ice pack on his ankle and rest for ten minutes and then return to class. (Decl. of Varela, ¶ 6.)

Plaintiff argues that the District owed a duty to properly care for Plaintiff after he was injured pursuant to the District's written health policies, which was breached by Varela's failure to take required actions. The District's Health Services On-Call Nurse (RN) policy requires the Health Assistant to always call the "On-Call Nurse" and submit an Accident Report for injuries that appear to be of a serious nature, including possible fractures and

possible sprains or strains. (Decl. of Briggs, Ex. D.) The Emergency First Aid Guidelines for California Schools require that all injured parts as if they could be fractured and recheck the injury after a period of rest to determine whether the pain is gone and the person can put weight on the injured part without discomfort. (Id, Ex. F.) If the pain is not gone and the person cannot put weight on the injured part, the school nurse or administrator and parents or guardians should be contacted. (Id.) Plaintiff states that he experienced severe pain after the collision, both before and after visiting the Health Office. (Decl. of Clark, ¶¶ 7, 29.) He claims that he could not walk to the Health Office without assistance from a friend. (Id at ¶ 8.) Plaintiff contends that Ms. Varela told him to return to class without asking whether the ice made the pain go away or ensuring that he could walk normally. (Id at ¶¶ 15-20.) To get to class, Plaintiff had to limp and use the wall for support. (Id at ¶ 28.) There is no evidence that Varela rechecked the injury as required or contacted Plaintiff's parents or the on-call nurse.

The District does not dispute these guidelines or that Plaintiff's injury was not rechecked or that his parents were not called. Instead, the District argues that it is not liable because Ms. Varela's failure to recheck the injury or contact Plaintiff's parents or the on-call nurse involve discretionary acts for which she is immune. Gov. Code § 820.2 grants immunity to public employees for injuries resulting from certain discretionary decisions by providing: "Except as otherwise provided by statute, a public employee is not liable for an injury resulting from his act or omission where the act or omission was the result of the exercise of the discretion vested in him, whether or not such discretion be abused." But "virtually every public act admits of some element of discretion." (*Tarasoff v. Regents of Univ. of Cal.* (1976) 17 Cal.3d 425, 445 [citing *Johnson v. State of Cal.* (1968) 69 Cal.2d 782].)

As a result, the court "distinguished between basic policymaking or 'planning' on the one hand and ministerial or 'operational' levels of decision-making on the other hand, holding that the first category triggered immunity while the latter category did not." (*Perez-Torres v. State of Cal.* (2007) 42 Cal.4th 136, 142–143.) "[T]o be entitled to immunity[,] the [defendant] must make a showing that such a policy decision, consciously balancing risks and advantages, took place. (*Lopez v. Southern Cal. Rapid Transit Dist.* (1985) 40 Cal.3d 780, 793.) For example, in *Lopez*, the court explained that a bus driver's decision concerning the protection of passengers from a third-party did not "rise to the level of governmental decisions calling for judicial restraint. (Id at 784, citing *Johnson, supra*, 69 Cal. 2d at 797.) Such a decision was determined to be a ministerial or operational action taken to implement the basic policies of the Legislature that is not immunized under section 820.2, despite the fact that the driver had alternative courses of action from which to choose and the choice involved some degree of judgment. (*Lopez, supra*, 40 Cal. 3d at 794.)

In this case, it is undisputed that after providing the ice pack and short rest, Ms. Varela determined that no further action was necessary based on Plaintiff's description of the injury and her own observations. (Decl. of Varela, ¶ 7.) The decision to return Plaintiff to class without contacting his parents or the on-call nurse was an operational rather than policy making decision. As such, the District has not established that it is entitled to immunity under Gov. Code § 820.2. Accordingly, Plaintiff has established that there are triable issues as to the existence of duty of care and the breach of that duty.

The District argues that, even if there are triable issues as to duty and breach, Plaintiff cannot establish causation because the ankle fracture was the result of Plaintiff running to the recess line and Student Z falling on his leg. “In order for a plaintiff to satisfy the causation element of a negligence cause of action, he or she must show the defendant’s act or omission was a substantial factor in bringing about the plaintiff’s harm...In other words, [the] plaintiff must show some substantial link or nexus between omission and injury.” (*Leyva v. Garcia* (2018) 20 Cal. App. 5th 1095, 1104.)

It appears to be undisputed that video of the incident shows that Plaintiff jogged or rushed to the recess line. (UMF No. 32; NOL, Ex. 5.) Per the student handbook provided to Plaintiff’s family prior to the 2022-2023 school year, Woodcrest had a policy requiring students to walk when lining up after recess. (Decl. of Fladland, ¶ 4.) Plaintiff and Student Z collided, causing Student Z to fall on Plaintiff’s leg. (UMF No. 33.) The District argues that Plaintiff cannot show that additional recess monitors or supervisors would have prevented the collision. A plaintiff cannot prove that the lack of supervision was substantial factor in causing injuries where there is only speculative possibility that additional supervision might have prevented the harm. (*Rinehart v. Boys & Girls Club of Chula Vista* (2005) 133 Cal. App. 4th 419, 435.)

However, Plaintiff claims that he suffered additional physical pain and suffering and emotional distress as a result of Varela’s failure to take proper actions after the collision. (SAC, ¶ 25.) The extent of recess supervision is irrelevant to this issue. In response, Defendant argues that the assertion that the failure to contact Plaintiff’s parents increased his injuries is belied by the undisputed fact that his parents did not seek medical treatment until the following day. (UMF No. 54.) In the meantime, Plaintiff’s parents instructed him to lie down, elevate his leg and apply an ice pack followed by warm-water treatment. (UMF No. 52.) This does not establish that the failure to recheck the injury or contact the on-call nurse did not cause additional injuries following the collision. Accordingly, there are triable issues of facts as to duty, breach and causation.

#### SUMMARY ADJUDICATION:

The District also seeks summary adjudication of the “Name-Calling Incident”, which Defendant argues was not addressed in the Government Claims Act claim. “Pursuant to Cal. Code Civ. Pro. §437c(f)(1), summary adjudication must dispose of one or more causes of action, affirmative defenses, claims for damages or issues of duty. Under the statute, adjudication of facts or issues that do not completely dispose of a cause of action, defense, claim for damages or issue of duty is improper. (*Lilienthal & Fowler v. Superior Court* (1993) 12 Cal. App. 4th 1848, 1853.)

Gov. Code § 945.4 provides that a lawsuit for money damages cannot be maintained against a public entity until a claim has been presented to the public entity and acted upon by the board or rejected. “Compliance with the claims statute is mandatory, and the failure to file a claim is fatal to the cause of action.” (*City of San Jose v. Superior Court* (1974) 12 Cal.3d 447, 454.) “The primary function of the Government Tort Claims Act (§ 810 et seq.) is to apprise the governmental body of imminent legal action so that it may investigate and evaluate the claim and where appropriate, avoid litigation by

settling meritorious claims.” (*Turner v. Cal.* (1991) 232 Cal. App. 3d 883, 888.) Courts generally apply a test of substantial compliance to determine whether there is sufficient information disclosed on the face of the tort claim to reasonably enable the public entity to make an adequate investigation of the merits of the claim and to settle it without the expense of a lawsuit. (*City of San Jose v. Superior Court* (1974) 12 Cal. 3d 447, 456.) “Consequently, a claim need not contain the detail and specificity required of a pleading, but need only fairly describe what the entity is alleged to have done.” (*Stockett v. Association of Cal. Water Agencies Joint Powers Ins. Authority* (2004) 34 Cal. 4th 441, 446.) The claim need not state each particular act which is later proven to have caused the injury. (Id at 447.)

On May 16, 2023, Plaintiff submitted a claim to the District pursuant to the Claims Act. The Claim refers to the December 16, 2022 Basketball Incident and the January 20, 2023 Collision Incident. (Decl. of Briggs, Ex. G.) It does not reference any name calling. Neither does the Second Amended Complaint, which only refers to “ongoing bullying”. (SAC, ¶ 23.) The description of the two incidents is sufficient to apprise the District that Plaintiff’s claims against it involve bullying by another student. Therefore, the Claim substantially complies with the Claims Act requirements. In its Memorandum of Points and Authorities, the District refers to testimony regarding name calling occurring for a couple of days before the Basketball Incident. However, since these allegations do not appear in the SAC, adjudication of the issue would not completely dispose of the negligence cause of action.

## 2.

| CASE #      | CASE NAME       | HEARING NAME                         |
|-------------|-----------------|--------------------------------------|
| CVRI2502515 | SOLIS vs KENNON | MOTION TO STRIKE ANSWER ON COMPLAINT |

**Tentative Ruling:** Plaintiff’s UNOPPOSED Motion to Strike Defendants HAYLEY A. KENNON, PENELOPE A. DELEON, and LUIS ENRIQUE DELEON’s Answer is granted, with leave to amend within 30 days.

Where verification of a pleading is required, and it is either not verified or improperly verified, it is subject to a motion to strike. *Perlman v. Municipal Court*, 99 Cal. App. 3d 568, 160 Cal. Rptr. 567 (2d Dist. 1979). Verification is not a jurisdictional requirement. *People v. Birch Securities Co.*, 86 Cal. App. 2d 703, 196 P.2d 143 (3d Dist. 1948)] Therefore, practitioners must object to a lack of verification or a defective verification or risk waiving the defect as they proceed to trial. *Ware v. Stafford*, 206 Cal. App. 2d 232, 24 Cal. Rptr. 153 (2d Dist. 1962)] The failure to verify a pleading, even where the verification is required by statute, is looked on as a mere defect curable by amendment. *United Farm Workers of America v. Agricultural Labor Relations Bd.*, 37 Cal. 3d 912, 210 Cal. Rptr. 453, 694 P.2d 138, 117 Lab. Cas. (CCH) P 56496 (1985).

3.

| CASE #      | CASE NAME                                      | HEARING NAME                  |
|-------------|------------------------------------------------|-------------------------------|
| CVRI2502539 | ADEMCO INC. vs<br>VALITUS<br>TECHNOLOGIES INC. | MOTION TO SET ASIDE DISMISSAL |

**Tentative Ruling:** Plaintiff's Motion to Set Aside Dismissal is granted. Case Management Conference and an Order to show cause is set for 9/8/26, as to why sanctions not to exceed \$1,500.00 or dismissal should not be imposed for Failure to file request for entry of default of ALL defendants on complaint pursuant to CRC 3.110(g) as to PLAINTIFF AND RONNIE CHOW.

4.

| CASE #      | CASE NAME                                           | HEARING NAME              |
|-------------|-----------------------------------------------------|---------------------------|
| CVRI2503317 | ALSHALABI vs<br>TOYOTA MOTOR<br>SALES, U.S.A., INC. | MOTION FOR ATTORNEYS FEES |

**Tentative Ruling:** Plaintiff's Motion for Attorney's Fees and Costs is granted in the reasonable reduced amount of \$17,352.31 (\$15,300.00 attorney fees + \$2,052.31 costs).

Under Civil Code § 1794(d) (Song-Beverly Act), "[i]f the buyer prevails in an action under this section, the buyer shall be allowed by the court as part of the judgment a sum equal to the aggregate amount of costs and expenses, including attorney's fees based on actual time expended, determined by the court to have been reasonably incurred by the buyer in connection with the commencement and prosecution of such action." Here, Plaintiff accepted Defendant's C.C.P. § 998 offer, which states that Plaintiff is the prevailing party and that Defendant shall pay Plaintiff's attorney fees, costs, and expenses upon separate motion. (David Decl., Exh. 1, ¶ 1.)

At issue in this motion is the reasonableness of Plaintiff's request. The matter of reasonableness of a party's attorney fees is within the sound discretion of the trial judge. (*Bruckman v. Parliament Escrow Co.* (1989) 190 Cal.App.3d 1051, 1062.) Courts generally consider several factors in determining the reasonableness of a party's attorney fees. These include "the nature of the litigation, the difficulty of the litigation, the attention given to the issues, the success of the attorney's efforts, and time consumed. [Citation omitted.]" (*PLCM Group, Inc. v. Drexler* (1999) 72 Cal.App.4th 693, 708.) Although a fee request ordinarily should be documented in great detail, the court is entitled to make its own evaluation of the reasonable worth of the work done in light of the nature of the case and the credibility of counsel's declaration, unsubstantiated by time records and billing statements. (See *Weber v. Langholz* (1995) 39 Cal.App.4th 1578, 1587; see also *Bernardi v. County of Monterey* (2008) 167 Cal.App.4th 1379, 1394.) Specifically in exercising its discretion, the Court may consider all the facts and the entire procedural history of the case in setting the amount of a reasonable attorney fee award. (*Bernardi, supra*, 167 Cal.App.4th 1379, 1394.)

Lodestar is the objective starting point to determine if attorney fees are reasonable. (*Nichols v. City of Taft* (2007) 155 Cal.App.4th 1233, 1242.) Lodestar is calculated by assessing the reasonable rate for comparable services in the local community, multiplied by the reasonable number of hour spent on the case. (*Ibid.*) Lodestar requires the court to determine what a reasonable rate and number of hours expended. (*Concepcion v. Amscan Holdings, Inc.* (2014) 223 Cal.App.4th 1309, 1320.)

Based on the time records and Declaration of Chad A. David, counsel spent:

| <b>Timekeeper</b>            | <b>Hours</b> | <b>Rate / Hour</b> | <b>Total</b>       |
|------------------------------|--------------|--------------------|--------------------|
| Chad David, Managing Partner | 5.6          | \$795.00           | \$4,452.00         |
| Nicolas Dillavou, Partner    | 20.2         | \$745.00           | \$15,049.00        |
| Joshua Youssefi, Partner     | 17.1         | \$745.00           | \$12,739.50        |
| Lisa Tyler, Paralegal        | 11.3         | \$250.00           | \$2,825.00         |
| Inigo Gatus, Paralegal       | 0.7          | \$250.00           | \$175.00           |
| Anna Costello, Paralegal     | 23.2         | \$250.00           | \$5,800.00         |
| Wrap-Up Fees                 | 5.0          | \$745.00           | \$3,725.00         |
| <b>TOTAL</b>                 | <b>83.1</b>  |                    | <b>\$44,765.50</b> |

Here, the hourly rates are not reasonable for Riverside County.

Next, there were six timekeepers in this case. A court may reduce fees where it is unreasonable to have so many attorneys staffing a case in a non-complex case. (*Morris v. Hyundai Motor America* (2019) 41 Cal.App.5th 24, 38-39.) In this case, there was one managing partner, two partners, and three paralegals. However, Plaintiff does not explain how this routine lemon law action, which required no law and motion, and settled via a C.C.P. § 998 offer, necessitated the higher billing rates of managing partners or any partner at all. Accordingly, the attorneys' hourly rates are reduced to that of an associate attorney.

A review of the billing records shows that counsel and staff billed for administrative and clerical tasks, such as status meetings, internal emails, case organization, updating case notes, document preparation, and calendaring. Accordingly, the Court strikes 0.8 hour from Attorney David's billing, 0.4 hour from Attorney Dillavou's billing, 3.0 hours from Attorney Youssefi's billing, 5.2 hours from Paralegal Castillo's billing, 2.5 hours from Paralegal Tyler's billing, and 0.2 hour from Paralegal Gatus' billing.

The billing records also show duplicative and excessive time entries. For example, on April 1, 2026, Paralegal Tyler billed 0.2 hour three separate times to email the client regarding videos. On September 23, 2025, Paralegal Costello billed 0.2 hour three separate times for discussing the deposition with the client. Paralegal Costello also billed 0.9 hour for drafting and serving a case management statement and notice of posting jury fees. Attorney Youssefi billed 1.1 hours for reviewing the file notes, repair orders, and document production, despite previously billing 0.2 hour for reviewing Defendant's documents earlier that day, and Attorney David previously reviewing repair



orders. Accordingly, the Court strikes 0.4 hour from Paralegal Tyler's billing, 0.9 hour from Paralegal Costello's billing, and 0.7 hour from Attorney Youssefi's billing.

Counsel then seeks 5.0 hours in wrap-up fees to review the opposition, draft the reply, and attend the hearing on this motion. However, Attorney David already billed 4.0 hours to draft the fee motion, and Paralegal Tyler billed 1.4 hours for finalizing the initial fee motion. There is no reason why such a routine fee motion should require more than 4.0 hours to draft. Accordingly, the Court strikes 1.4 hours from Paralegal Tyler's billing, and strike 5.0 hours from the wrap-up fees in full.

Defendant's challenges for unnecessary/overbilled tasks, discovery, etc. are not supported. As such, the Court awards the following:

| <b>Timekeeper</b>            | <b>Hours</b> | <b>Rate / Hour</b> | <b>Total</b>       |
|------------------------------|--------------|--------------------|--------------------|
| Chad David, Managing Partner | 4.8          | \$300.00           | \$1,440.00         |
| Nicolas Dillavou, Partner    | 19.8         | \$300.00           | \$5,940.00         |
| Joshua Youssefi, Partner     | 13.4         | \$300.00           | \$4,020.00         |
| Lisa Tyler, Paralegal        | 8.4          | \$150.00           | \$1,260.00         |
| Inigo Gatus, Paralegal       | 0.5          | \$150.00           | \$75.00            |
| Anna Costello, Paralegal     | 17.1         | \$150.00           | \$2,565.00         |
| Wrap-Up Fees                 | 0.0          | \$300.00           | \$0.00             |
| <b>TOTAL</b>                 | <b>64.0</b>  |                    | <b>\$15,300.00</b> |

## COSTS

Civil Code §1794(d) permits the court to award reasonably incurred costs and expenses. Defendant argues that Plaintiff has failed to separately file a memorandum of costs as required by California Rules of Court, Rule 3.1700, but merely attaches a copy of the memorandum as Exhibit 8 to the motion. Plaintiffs contend that the C.C.P. § 998 offer specified fees and costs are to be sought via separate motion, a point that Defendant does not address. (David Decl., Exh. 1, ¶ 1.) In addition, pursuant to Civil Code § 1794(d), a prevailing buyer in a Song-Beverly action "shall be allowed by the court to recover as part of the judgment a sum equal to the aggregate amount of costs and expenses...." (Civ. Code, § 1794(d).)

Here, Plaintiff submits an unfilled memorandum of costs totaling \$2,052.31. (David Decl., Exh. 8.) Under the Song-Beverly Act, the Legislature intended the use of "costs and expenses" to include items excluded under C.C.P. §1033.5. (*Jensen v. BMW of North America, Inc.* (1995) 35 Cal.App.4th 112, 137-138; accord *Warren v. Kia Motors America, Inc.* (2018) 30 Cal.App.5th 24, 42-43.) Defendant does not dispute any cost specified in the attached exhibit. Upon review, Plaintiff's claimed costs appear reasonable.