

## Motion for Attorneys' Fees and Costs

(Judge Deborah C. Servino)

Petitioners Joanna Lopez and Maria Arellano's motion for attorney's fees and costs is granted in part and denied in part. The Motion is denied as to attorney's fees. The Motion is granted in part as to costs, as set forth below.

While Petitioners are the prevailing party against Defendant Morgan Coast Management, LLC ("MCM"), they did not prevail against all other Defendants. Also, the Petition was granted in part and denied in part as to MCM. The parties did not dispute that Petitioners were members of the LLC. As members of the LLC, the parties' relationship was governed by the Operating Agreement, including the attorney fees provision of Article 8.11. Thus, Civil Code section 1717 applies here.

An attorney is entitled to recover reasonable fees. (*Serrano v. Priest*(1977) 20 Cal.3d 25, 48.) The burden is on the attorney claiming fees to establish entitlement to them. (*Computer Xpress, Inc. v. Jackson*(2001) 93 Cal.App.4th 993, 1020.) While Petitioners are authorized to obtain attorney fees in this case, they have not established the amount of reasonable and necessary fees incurred in prosecuting the claims against MCM. The motion for attorney fees does not apportion its fees between MCM and the other Defendants, as required. (*Charton v. Harkey* (2016) 247 Cal.App.4th 730, 743-745.)

Furthermore, the Motion does not contain sufficient description of the work performed. There is an admitted discrepancy between the amount requested in the Motion and then in the Reply. The court has not been provided with sufficient information to evaluate the reasonableness and necessity of petitioners' claim for fees. For this reason, the Court exercises its discretion to deny the Motion for attorney fees. (*Christian Research Institute v. Alnor* (2008) 165 Cal.App.4th 1315, 1320; see *569 East County Boulevard LLC v. Backcountry Against the Dump, Inc.* (2016) 6 Cal.App.5th 426, 212 Cal.Rptr.3d 304, 318.)

Petitioners' Motion is granted in part for costs. Petitioners shall recover \$609.95 in costs. Expert costs are not recoverable because they were not ordered by the court. (Code Civ. Proc., § 1033.5.) Petitioners themselves have established that the depositions for which they seek costs, did not happen in litigation of this matter.

**PETITIONERS' MOTION TO STRIKE OR TAX COSTS**

Petitioners' motion to strike or tax costs is granted. Respondents' 5/30/2017 Memorandum of Costs is stricken because it was not timely-filed. (Cal. Rules of Court, rule 3.1700(a)(1).) Respondents cannot recover costs.

Petitioners shall give notice of the rulings.

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