

**TENTATIVE RULINGS: CIVIL LAW & MOTION**

Friday, June 26, 2026 at 1:30 p.m.  
Courtroom 3 – Hon. Kenneth G. English  
**600 Administration Drive  
Santa Rosa, California 95403**

The tentative rulings will become the ruling of the Court unless a party desires to be heard. If you desire to appear and present oral argument, **YOU MUST NOTIFY** the Judge’s Judicial Assistant by telephone at **(707) 521-6724**, and all other opposing parties of your intent to appear, **and whether that appearance is in person or via Zoom**, no later 4:00 p.m. the court day immediately preceding the day of the hearing.

**If the tentative ruling is accepted, no appearance is necessary unless otherwise indicated.**

**TO JOIN ZOOM ONLINE:**

**Department 3:**

Meeting ID: 161—509—1092  
Password: 341726

**TO JOIN ZOOM BY PHONE:**

By Phone (same meeting ID and password as listed for each calendar):  
Call: +1 669 900 6833 US (San Jose)

Unless notification of an appearance has been given as provided above, the tentative ruling shall become the ruling of the Court the day of the hearing at the beginning of the calendar.

**1. SCV-265416, Papenhausen v. Funez.- Plaintiff’s Motion for Attorney’s Fees and Expenses; Defendants’ Motion to Strike/Tax Plaintiff’s Costs**

This is a joint ruling on Plaintiff’s motion for attorney fees and expenses and Defendants’ motion to strike/tax Plaintiff’s costs.

Plaintiff’s motion for attorney’s fees and expenses is **GRANTED** in part and **DENIED** in part. Plaintiff’s request for attorney’s fees is **GRANTED** in the amount of \$517,092.50. Plaintiff’s request for expert witness expenses is **DENIED**.

Defendants’ motion to strike/tax Plaintiff’s costs is **GRANTED** in part and **DENIED** in part. Defendants’ request to strike the memorandum of costs is **DENIED**. Defendants’ request to tax Plaintiff’s costs is **GRANTED** the amount of \$733.87. Costs are awarded to Plaintiff in the amount of \$12,824.45.

Defendant shall pay Plaintiff a total amount of \$529,916.95 in attorney’s fees and costs.

Plaintiff's request for judicial notice in support of his motion for attorney's fees is **GRANTED** in part and **DENIED** in part. Judicial notice is **GRANTED** of Exhibits A and G but **DENIED** as to the rest. Exhibits A and G consist of the Special Verdict Form-Complaint and the Judgment in this matter. The remaining exhibits consist of trial exhibits. Trial exhibits are disputable evidence that are not the proper subjects of judicial notice. The Court can judicially notice that these trial exhibits were filed with the Court and the date on which they were filed but cannot judicially notice the truth of their contents.

Plaintiff's counsel shall submit a written order consistent with this tentative ruling and in compliance with Rule 3.1312.

Analysis:

I. Background

This case arises from the reconstruction of a residence at 3926 Fawn Glen Place, Santa Rosa, California, destroyed in the October 2017 Tubbs wildfire. Plaintiff David Papenhausen, a licensed general building contractor, entered into a written contract with Defendants Michael Funez and Linda Pardini on or about April 10, 2018, for the reconstruction of the residence at a fixed contract price of \$2,979,550. In June 2019, Defendants assumed management of the project as owner-builders. Plaintiff performed no further work.

Plaintiff filed this action on October 23, 2019, alleging breach of contract and quantum meruit based on three unpaid invoices. On March 6, 2020, Defendants filed a cross-complaint against David Papenhausen and his son, Michael Papenhausen, alleging, among other things, defective workmanship, negligence, breach of contract, and fraudulent concealment in connection with modifications made to the Strong-Walls.

David and Michael Papenhausen filed a Cross-Complaint against numerous subcontractors alleging express and implied contractual indemnity, contribution, breach of contract, and declaratory relief relating to duties to defend and indemnify (Subcontractor Cross-Complaint).

The Papenhausens filed a Motion for Reclassification of the matter from general civil to complex civil, which was granted by Court order on December 15, 2022. The Court appointed Bruce Edwards ("Mr. Edwards") as Special Master/Discovery Referee. The various parties, including subcontractors, met with Mr. Edwards on four occasions regarding discovery disputes and complex case management issues.

Jury trial commenced July 20, 2025 and lasted 30 days. On September 16, 2025, the jury returned a verdict of \$640,699.00 in favor of Plaintiff on the Complaint (comprising amounts due on three unpaid invoices and lost profits) and found in favor of Cross-Defendants on all causes of action in the Cross-Complaint.

Since the verdict was rendered on September 16, 2025, there have been motions and hearings over

issues such as pre-judgment interest, Defendants' claim to a setoff, followed by Defendants' pending post-trial motions for new trial and for judgment notwithstanding the verdict.

Judgment was entered on December 2, 2025. The December 2, 2025 Judgment states, "Plaintiff and cross-defendants are the prevailing parties and are entitled to recover their costs respectively from defendants and cross-complainants." (Plaintiff's RJN, Ex. G.) The contract between the parties states,

In the event the parties hereto become involved in litigation or arbitration arising out of this Contract or the performance or breach thereof, the court in such litigation or arbitration or in separate suit shall award reasonable costs, expenses and attorney fees to the prevailing party. The court shall not be bound by any court fee schedule and in the interest of justice award the full amount of costs, expenses and attorney fees incurred in good faith.

(Trial Exhibit 102.)

## II. Attorney's Fees

The standard for calculating attorney fee awards under California law, "[O]rdinarily begins with the 'lodestar,' i.e., the number of hours reasonably expended multiplied by the reasonable hourly rate..." (*PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095.)

The lodestar figure may then be adjusted, based on consideration of factors specific to the case, in order to fix the fee at the fair market value for the legal services provided. [Citation.] Such an approach anchors the trial court's analysis to an objective determination of the value of the attorney's services, ensuring that the amount awarded is not arbitrary.

(*Ibid.*) In calculating the lodestar, "The reasonable hourly rate is that prevailing in the community for similar work." (*Ibid.*) "[T]he trial court has broad authority to determine the amount of a reasonable fee." (*Ibid.*) "The determination of what constitutes reasonable attorney fees is committed to the discretion of the trial court. [Citation.] The experienced trial judge is the best judge of the value of professional services rendered in his or her court. [Citation.]" (*Rey v. Madera Unified School Dist.* (2012) 203 Cal.App.4th 1223, 1240.)

Plaintiff seeks to recover \$594,865.27 in attorney fees based on 921.30 hours of attorney time and 69.5 hours of paralegal time expended on this case and hourly rates of \$500 for most attorneys, \$650 for Martin Reilley, managing principal, and \$200 for a paralegal. Most of the attorneys working on this case have over 20 years of experience in litigation and Mr. Reilley has over 40 years of experience. Mr. Reilley was brought into the case when it appeared destined to go to trial. Defendants have not objected to the reasonableness of the rates requested. For the most part, the Court finds the hourly rates requested to be reasonable. However, the Court has reduced the rates awarded for Mr. Sansone and Mr. Boardman as reflected in the section entitled "Overstaffing," below.

Defendants argue that the number of hours requested is unreasonable. They argue that the hours should be reduced for clerical/administrative tasks that could have been done by non-attorneys or non-paralegals; for routine communications; for overstaffing; for travel time; for communicating with the special master; and for the expert fees.

#### *Clerical/Administrative Tasks*

Defendants argue that 47.6 hours of paralegal time for clerical or administrative tasks should be reduced from the fees award because such tasks do not require paralegal expertise. This argument is not persuasive. The Court finds the hourly rates requested for paralegal time and the amount of time spent by the paralegal to be reasonable.

#### *Routine Communications*

Defendants argue that 292.3 hours should be reduced from the award for time spent by attorneys on routine communications, such as brief phone calls, emails, and internal conferences. This argument is unpersuasive. Routine communications are undoubtedly essential to prosecution of a case and are compensable. Although, the Court agrees that some of this type of work could and should have been delegated to a non-senior level attorney. This is analyzed below in the section regarding overstaffing.

#### *Overstaffing*

Defendants assert that Plaintiff's case was overstaffed with too many senior-level attorneys, which reflects an inefficient allocation of resources. They argue that the complexity of the case did not require this level of senior staffing.

It appears from the billing records attached to the declaration of Timothy Hannon that, though 5 attorneys worked on this case through its inception, for much of the case, only two attorneys or fewer worked on it at a time. There is an exception during the post-trial motions when it appears that three attorneys were working on the case at the same time.

This type of case did not reasonably require a significant level of senior-level staffing prior to or during trial. This is especially so considering the paralegal support available.

For the time prior to trial, the Court will award time for one senior level attorney and one mid-level attorney. During trial and for the post-trial motions, the Court will award time for two senior-level attorneys. To accomplish this, the Court will reduce the hourly rates of James Sansone and Jim Boardman to \$475 (reasonable mid-level attorney rate) since they each only billed time prior to trial. The Court will also reduce all time billed by Michael Brook since all his billing occurred post-trial. Timothy Hannon was the main counsel on this case. His time will not be reduced.

Attorney's fees shall be awarded as follows:

Attorney:	Hourly rate requested:	Hourly rate granted:	Number of hours requested:	Number of hours granted:	Total:
Timothy J. Hannon	\$500	\$500	421.30	421.30	\$210,650.00
Martin T. Reilley	\$650	\$650	442.50	442.50	\$287,625.00
Michael J. Brook	\$500	--	36.20	0	\$0
James V. Sansone	\$500	\$475	3.80	3.80	\$1,805.00
James M. Boardman	\$500	\$475	17.50	17.50	\$8,312.50
				Total:	\$508,392.50
				Tavel time deduction (see below):	\$5,200.00
				Award:	\$503,192.50

Paralegal fees are awarded as follows:

Paralegal:	Hourly rate requested:	Hourly rate granted:	Number of hours requested:	Number of hours granted:	Total:
Jessica L. Bucci	\$200	\$200	69.50	69.50	\$13,900.00

*Travel Time*

As argued by Defendants, Plaintiff seeks fees for 11.3 hours of travel time, much of which is block-billed with substantive tasks, making it impossible to determine how much time was actually spent traveling. In reply, Plaintiff has agreed to reduce the attorney’s fees request by \$5,200 for Mr. Reilley’s travel time. The Court finds this to be reasonable.

*Communicating with Special Master*

Defendants argue that Plaintiff should not recover for time spent communicating with the special master since the special master was appointed solely as a result of Plaintiff/Cross-Defendant David Papenhausen’s own strategic decision to seek complex designation in connection with his subcontractor cross-complaint. This argument is unpersuasive because the Special Master also acted as the Discovery Referee and handled issues of discovery relating to all parties’ claims. Communicating with him was necessary to the litigation. The issues handled by the Special Master/Discovery Referee are inextricably intertwined and need not be apportioned.

### *Expert Fees*

“[A]ssuming expert witness fees may be recovered under a contractual provision, they must be specially pleaded and proven at trial rather than included in a memorandum of costs.” (*Applied Medical Distribution Corp. v. Jarrells* (2024) 100 Cal.App.5th 556, 585–586.) “[I]f expert witness fees are recoverable under a contractual term providing for recovery of ‘expenses,’ those fees must be pleaded and proven, and they are not recoverable as costs under Code of Civil Procedure sections 1032 and 1033.5.” (*Id.* at 586.)

Plaintiff did not plead or prove at trial the expert witness expenses he now seeks. Plaintiff argues that he was not required to do so considering that the parties agreed that “costs, expenses, and attorney fees” would be recoverable. However, this argument is directly in conflict with the *Applied Med. Dist. Corp.* case, above. Plaintiff cites *Thrifty Payless, Inc. v. Mariners Mile Gateway, LLC* (2010) 185 Cal.App.4th 1050, 1067, as being on point. However, the *Thrifty Payless* case was distinguished by the *Applied Med. Dist. Corp.* case. As explained by the *Applied Court*,

The present case differs in two significant ways from *Thrifty Payless*, which we believe are dispositive. First, the contract at issue in *Thrifty Payless* specified, “the prevailing party is entitled to ‘reasonable expenses,’ including attorney fees, ‘court costs, witness and expert fees.’ ” ...Here, the parties’ Agreement allows Applied to recover “expenses” but does not specify expert witness fees. Second, *Thrifty Payless* was resolved via a nonsuit motion during trial, so it would not have been possible for the prevailing party to prove its expert fees...

(*Applied Med. Dist. Corp.*, *supra*, at 586.) The same is true here as in *Applied*. The parties’ agreement allows the prevailing party to recover “expenses” but does not specify expert witness fees. Furthermore, this case went to trial, unlike in *Thrifty Payless*. The circumstances of this case are more like those of *Applied Med. Dist. Corp.* and the Court finds it to be controlling. Plaintiff’s expert witness fees are not recoverable since they were not pleaded or proven at trial.

### III. Costs

Plaintiff filed a memorandum of costs on January 2, 2026, seeking \$13,558.32 in costs. Defendant seeks to strike Plaintiff’s costs memorandum, or alternatively, to tax it by the following amounts:

1. Item 1 – Filing and Motion Fees – \$1,140.00
2. Item 4 – Deposition Costs – \$8,449.30
3. Item 14 – Electronic Filing or Service Fees – \$495.92
4. Item 15 – Other – \$2,344.10

### *Filing and Motion Fees*

Defendants seek to tax Plaintiff’s filing fees relating to ex parte applications which were supposedly necessitated by Plaintiff’s counsel’s illness as being “not reasonably necessary.” They also seek to

tax the \$1,000 complex case designation fee as having been incurred as a direct result of Cross-Defendants' motion to designate the case as complex and their decision to file the Subcontractor Cross-Complaint. The Court finds these costs to have been reasonably necessary to make litigation effectual for Plaintiff. Accordingly, neither of these items shall be taxed.

#### *Deposition Costs*

Defendants seek to tax \$8,449.30 for deposition transcripts because they were already included in Cross-Defendants' Memorandum of Costs. Since Plaintiff David Papenhausen and Cross-Defendant David Papenhausen are the same individual, Defendant argues that Plaintiff is effectively seeking double recovery.

However, there was not a complete match of Plaintiff to Cross-Defendants. Michael Papenhausen was also a named Cross-Defendant. It is entirely reasonable for each party to obtain their own copy of the deposition transcripts. The Court does not find any indication of double-recovery for this expense.

#### *Electronic Filing and Service Fees*

Plaintiff seeks \$495.92 for electronic filing and service fees; however, Plaintiff did not attach anything to the memorandum of costs that supports this request. Furthermore, Plaintiff does not respond to Defendants' challenge of these costs in Plaintiff's opposition. There is nothing in the record that supports these costs as having been incurred.

"Documentation must be submitted...when a party dissatisfied with the costs claimed in the memorandum challenges them by filing a motion to tax costs." (*Bach v. County of Butte* (1989) 215 Cal.App.3d 294, 308, see also *Jones v. Dumrichob* (1998) 63 Cal.App.4th 1258, 1267 and *Oak Grove School Dist. Of Santa Clara County v. City Title Ins. Co* (1963) 217 Cal.App.3d 678, 689.)

Accordingly, \$495.92 shall be taxed from Plaintiff's costs award.

#### *"Other" Costs*

As demonstrated in Attachment 15 to Plaintiff's memorandum of costs, Plaintiff seeks recovery of costs relating to the mechanic's lien, the lis pendens, and the mediation. Defendants seek to tax these costs considering that Plaintiff was unsuccessful on his claim for foreclosure of mechanic's lien and because the Special Master was appointed only after Cross-Defendants sought complex designation and the mediation was largely unsuccessful.

The Court agrees that since Plaintiff was unsuccessful on his claim for foreclosure of mechanic's lien and since these costs items are easily apportioned, the cost items related to the recordation of the mechanic's lien and lis pendens should be taxed. These items total \$237.95.

Defendants' argument regarding the mediation fees is unpersuasive. Mediation costs are not mentioned as recoverable costs in CCP § 1033.5. However, costs not mentioned in CCP § 1033.4 may be allowed or denied in the Court's discretion. (CCP § 1033.5(c)(4). Such costs "shall be

reasonably necessary to the conduct of the litigation rather than merely convenient or beneficial to its preparation” and “shall be reasonable in amount.” (CCP § 1033.5(c)(2)-(3).)

A special master having been appointed by the court, his or her fee is analogous to the award of “[f]ees of expert witnesses ordered by the court.” [Citation.] The expense of court-appointed experts is first apportioned and charged to the parties, and then the prevailing party's share is allowed as an item of costs. [Citation.]

The trial court acted well within the broad discretion granted to it by section 1033.5, subdivision (c)(4), when it allowed the special master fees as an item of costs.

(*Winston Square Homeowner's Assn. v. Centex West, Inc.* (1989) 213 Cal.App.3d 282, 293.)

“Several appellate courts have held the fees of various court-appointed assistants necessary for the conduct of civil litigation, including special masters, referees and arbitrators, constitute statutory costs that may be awarded under section 1033.5, subdivision (c)(4).” (*Southern California Sunbelt Developers, Inc. v. Banyan Limited Partnership* (2017) 8 Cal.App.5th 910, 931.)

Here, the Court found the appointment of a Special Master/Discovery Referee to be “necessary and practical” for the coordination of depositions, expert witness, and testing. The costs associated with the Special Master/Discovery Referee were reasonable and necessary. They are compensable.

## **2. Cross-Defendants’ Motion for Attorney’s Fees; Cross-Complainants’ Motion to Strike/Tax Cross-Defendants’ Costs**

This is a joint ruling on Cross-Defendants’ motion for attorney’s fees and Cross-Complainants’ motion to strike/tax Cross-Defendants’ costs.

Cross-Defendants’ motion for attorney’s fees is **GRANTED** in the amount of \$912,655.63.

Cross-Complainants’ motion to strike/tax Cross-Defendants’ costs is **GRANTED** in part and **DENIED** in part. The request to strike the memorandum is **DENIED**. The request to tax is **GRANTED** in the amount of \$196.84. Costs are awarded to Cross-Defendants in the amount of \$84,581.24.

Cross-Defendants’ request for judicial notice in support of their reply to Cross-Complainants’ motion to strike/tax costs is **GRANTED**.

Cross-Complainants shall pay Cross-Defendants a total amount of \$997,236.87 in attorney fees and costs.

Cross-Defendants’ counsel shall submit a written order consistent with this tentative ruling and in compliance with Rule 3.1312.

### **I. Background**

This case arises from the reconstruction of a residence at 3926 Fawn Glen Place, Santa Rosa, California, destroyed in the October 2017 Tubbs wildfire. Plaintiff David Papenhausen, a licensed general building contractor, entered into a written contract with Defendants Michael Funez and Linda Pardini on or about April 10, 2018, for the reconstruction of the residence at a fixed contract price of \$2,979,550. In June 2019, Defendants assumed management of the project as owner-builders. Plaintiff performed no further work.

Plaintiff filed this action on October 23, 2019, alleging breach of contract and quantum meruit based on three unpaid invoices. On March 6, 2020, Defendants filed a cross-complaint against David Papenhausen and his son, Michael Papenhausen, alleging, among other things, defective workmanship, negligence, breach of contract, and fraudulent concealment in connection with modifications made to the Strong-Walls.

David and Michael Papenhausen subsequently filed a Cross-Complaint against numerous subcontractors alleging express and implied contractual indemnity, contribution, breach of contract, and declaratory relief relating to duties to defend and indemnify.

The Papenhausens filed a Motion for Reclassification of the matter from general civil to complex civil, which was granted by Court order on December 15, 2022. The Court appointed Bruce Edwards (“Mr. Edwards”) as special master/discovery referee. The various parties, including subcontractors, met with Mr. Edwards on four occasions regarding discovery disputes and complex case management issues.

Jury trial commenced July 20, 2025, and lasted 30 days. On September 16, 2025, the jury returned a verdict of \$640,699.00 in favor of Plaintiff on the Complaint (comprising amounts due on three unpaid invoices and lost profits) and found in favor of Cross-Defendants on all causes of action in the Cross-Complaint.

Since the verdict was rendered on September 16, 2025, there have been motions and hearings over issues such as pre-judgment interest, Defendants’ claim to a setoff, followed by Defendants’ pending post-trial motions for new trial and for judgment notwithstanding the verdict.

Judgment was entered on December 2, 2025. The December 2, 2025 Judgment states, “Plaintiff and cross-defendants are the prevailing parties, and are entitled to recover their costs respectively from defendants and cross-complainants.” (Plaintiff’s RJN, Ex. G.) The contract between the Pardinis and David Papenhausen states,

In the event the parties hereto become involved in litigation or arbitration arising out of this Contract or the performance or breach thereof, the court in such litigation or arbitration or in separate suit shall award reasonable costs, expenses and attorney fees to the prevailing party. The court shall not be bound by any court fee schedule and in the interest of justice award the full amount of costs, expenses and attorney fees incurred in good faith.

(Trial Exhibit 102.) Cross-Complainants agree that “the Papenhausens are the prevailing party on the Pardini Cross-Complaint.” (Cross-Complainant’s MPA in oppo, p. 5.) However, they argue that Cross-Defendants should not recover any time spent on their own Cross-Complaint against the subcontractors since it involved different parties and they were not entirely successful on it. This argument is addressed below.

## II. Attorney’s Fees

The standard for calculating attorney fee awards under California law, “[O]rdinarily begins with the ‘lodestar,’ i.e., the number of hours reasonably expended multiplied by the reasonable hourly rate...” (*PLCM Group, Inc. u. Drexler* (2000) 22 Cal.4th 1084, 1095.)

The lodestar figure may then be adjusted, based on consideration of factors specific to the case, in order to fix the fee at the fair market value for the legal services provided.

[Citation.] Such an approach anchors the trial court’s analysis to an objective determination of the value of the attorney’s services, ensuring that the amount awarded is not arbitrary.

(*Ibid.*) In calculating the lodestar, “The reasonable hourly rate is that prevailing in the community for similar work.” (*Ibid.*) “[T]he trial court has broad authority to determine the amount of a reasonable fee.” (*Ibid.*) “The determination of what constitutes reasonable attorney fees is committed to the discretion of the trial court. [Citation.] The experienced trial judge is the best judge of the value of professional services rendered in his or her court. [Citation.]” (*Rey v. Madera Unified School Dist.* (2012) 203 Cal.App.4th 1223, 1240.)

Cross-Defendants request hourly rates of \$550 for every attorney that worked on the matter, regardless of experience level, and \$137.50 for paralegals. The hourly rate requested for paralegals is reasonable and approved. However, the hourly rates for the attorneys is not entirely reasonable. Seeking \$550 per hour for Steven W. Yuen, Stephen B. Heath, Matthew J. Kracht, and Paul A. Vaillancourt is reasonable since they each have over 19+ years of experience as attorneys. However, Joshua G. Wong has been an attorney for 11 years as of 2026—thus for even less during this litigation—and Prova Ahmed was in her first year of litigating when she worked for Cross-Defendants’ counsel. Accordingly, \$550 per hour for those two attorneys is not reasonable. Counsel represents that \$550 per hour is a “blended” hourly rate. However, counsel has not demonstrated that blending hourly rates is appropriate.

The Court will grant hourly rates as follows:

Steven W. Yuen: \$550

Stephen B. Heath: \$550

Matthew J. Kracht: \$550

Paul A. Vaillancourt: \$550

Joshua G. Wong: \$475

Prova Ahmed: \$425

Cross-Complainants argue that the number of hours requested is unreasonable. They argue that the hours should be reduced for several reasons, each of which is discussed below.

#### *Clerical/Administrative Tasks*

Cross-Complainants argue that Cross-Defendants seek approximately 85 hours of paralegal time for work that is largely clerical or administrative in nature. According to Cross-Complainants these tasks required no legal analysis or specialized training. While the Court does not necessarily agree that clerical and administrative tasks are not compensable at paralegal rates, the Court does agree that a reduction in the number of paralegal hours requested is necessary. This reduction can be found under the “Overstaffing” heading below.

#### *Routine Communications*

Cross-Complainants argue that 240 hours should be reduced from the award for time spent on reviewing correspondence, internal communications, carrier updates, and “repetitive” email exchanges. This argument is unpersuasive. Routine communications are undoubtedly essential to prosecution or defense of a case and are compensable. There is nothing indicating unreasonable repetitiveness or duplication of communications. However, the Court agrees that some tasks should have been delegated to non-senior level attorneys and such reductions have been made under the “Overstaffing” heading below.

#### *Proportionality*

As argued, the fees request is disproportionate to the recovery obtained in this matter. Plaintiff recovered \$640,699.00. As acknowledged by Cross-Complainants, attorney’s fees need not be proportionate to the recovery. They need only be reasonable.

#### *“Overstaffing”*

Cross-Complainants assert that Plaintiff’s case was overstaffed with six paralegals and five attorneys, many of whom were senior-level. As argued, there is no apparent justification for assigning multiple senior attorneys to tasks that could have been performed by lower-billing attorneys or support staff.

The Court notes that 632 hours were billed by Joshua G. Wong (11 years experience), which is approximately one-third of the hours requested. Furthermore, the Court has reduced the hourly rate for Mr. Wong and Ms. Ahmed considering their experience level. Nonetheless, the Court agrees that this matter was overstaffed.

Stephen B. Heath (senior attorney) has been working on this case from its inception in 2020 through the present, including during trial.

Matthew J. Kracht (senior attorney) began working on this case in 2021 through August of 2022, when it appears that Paul A. Vaillancourt (senior attorney) took over for him. Mr. Vaillancourt began billing in May of 2022 and billed through August of 2025, including during trial.

Joshua G. Wong (mid-level attorney) began working on this case in September of 2022 through the present, including during trial.

Steven W. Yuen (senior attorney) began working on the case in July of 2025—at the commencement of trial—through the resolution of the post-judgment motions.

Prova Ahmed worked on the case in early 2021 and billed only 1.7 hours.

This means that beginning in September of 2022, there were two senior attorneys (Health & Vaillencourt) and one mid-level attorney (Wong) working on this case. Once trial commenced there were three senior attorneys and one mid-level attorney working on this case.

This type of case did not reasonably require this level of senior-level staffing prior to trial, nor this level of staffing at trial. This is especially so considering the level of paralegal support available.

Prior to trial, the Court will award time for one senior level attorney and one mid-level attorney. During trial, the Court will award time for two senior-level attorneys and one mid-level attorney.

Accordingly, all time requested for Mr. Health, Mr. Yuen, Mr. Wong, and Ms. Ahmed will be granted. The requested time for Mr. Kracht and Mr. Vaillencourt will be deducted from the fees award.

As for paralegals, Wendy H. Yang alone billed 730.8 hours on this matter. The total paralegal time on this case is 763.9 hours. This is in addition to the over 2,000 hours of attorney time. Considering the amount of time the attorneys spent on this matter, this level of paralegal support was unreasonable. The Court finds a 50% reduction in paralegal time to be reasonable. The total number of hours awarded for paralegal time is 381.95. At \$137.5 per hour, the total award for paralegal fees is \$52,518.13.

#### *Travel Time*

Cross-Complainants seek a reduction of the hours spent on travel time of Cross-Defendants' attorneys to-and-from their office in San Francisco. The Court agrees that a reduction of travel time is necessary. The Court analyzes counsel's travel time under the same logic that requires the Court to assess reasonableness of hourly rates pursuant to the local market. Local market rates are used as the basis for fees because, unless a case is highly unique and there are no local attorneys qualified to take the case, it is not reasonable to require the other party to pay for higher rates when local counsel could have been chosen at lower rates.

Under the same logic, Cross-Complainants should not be required to pay for the time it takes out-of-town counsel to get to town when local counsel could have appeared in less time. The following time entries for travel to-and-from San Francisco have been reduced to reflect a reasonable amount of travel time for a local attorney. As reflected in the 9/12/25 time entry of Steven W. Yuen, it took 0.4 hours to get to and from counsel's temporary office in Santa Rosa. So, that will be the amount of time that the Court will award for round trip travel to and from the Court.

Stephen B. Heith:

Hours sought:	Hours awarded:
09/01/2020 Stephen B. Heath 2.0 – RT travel from SF to Petaluma	0.4
07/18/2025 Stephen B. Heath 2.9 – RT travel from SF to Court	0.4
07/22/2025 Stephen B. Heath 2.9 – RT travel from SF to Court	0.4
07/23/2025 Stephen B. Heath 2.9 – RT travel from SF to Court	0.4
07/24/2025 Stephen B. Heath 2.9 – RT travel from SF to Court	0.4
07/25/2025 Stephen B. Heath 2.9 – RT travel from SF to Court	0.4
07/29/2025 Stephen B. Heath 2.9 – RT travel from SF to Court	0.4
07/30/2025 Stephen B. Heath 2.9 – RT travel from SF to Court	0.4
07/31/2025 Stephen B. Heath 2.9 – RT travel from SF to Court	0.4
08/01/2025 Stephen B. Heath 2.9 – RT travel from SF to Court	0.4
08/12/2025 Stephen B. Heath 2.9 – RT travel from SF to Court	0.4
08/13/2025 Stephen B. Heath 2.9 – RT travel from SF to Court	0.4
08/14/2025 Stephen B. Heath 2.9 – RT travel from SF to Court	0.4
08/15/2025 Stephen B. Heath 2.9 – RT travel from SF to Court	0.4
08/19/2025 Stephen B. Heath 0.2 – local travel from court to Pl firm	0.2
08/19/2025 Stephen B. Heath 1.5 – One way travel from Pl firm to SF	0.2
08/20/2025 Stephen B. Heath 2.9 – RT travel from SF to Court	0.4
08/21/2025 Stephen B. Heath 2.9 – RT travel from SF to Court	0.4
08/22/2025 Stephen B. Heath 2.9 – RT travel from SF to Court	0.4
08/26/2025 Stephen B. Heath 2.9 – RT travel from SF to Court	0.4
08/27/2025 Stephen B. Heath 2.9 – RT travel from SF to Court	0.4
08/28/2025 Stephen B. Heath 2.9 – RT travel from SF to Court	0.4
08/28/2025 Stephen B. Heath 2.9 ( <b>Duplicate</b> ) – RT travel from SF to Court	0
08/29/2025 Stephen B. Heath 2.9 – RT travel from SF to Court	0.4
09/02/2025 Stephen B. Heath 2.9 – RT travel from SF to Court	0.4
09/03/2025 Stephen B. Heath 2.9 – RT travel from SF to Court	0.4
09/04/2025 Stephen B. Heath 2.9 – RT travel from SF to Court	0.4
09/05/2025 Stephen B. Heath 2.9 – RT travel from SF to Court	0.4
09/09/2025 Stephen B. Heath 2.9 – RT travel from SF to Court	0.4
Hours requested: 79.1	Hours awarded: 10.8
<b>Difference between hours requested and hours awarded that shall be deducted from fees award:</b>	<b>68.3</b>

Joshua G. Wong:

Hours requested:	Hours awarded:
05/20/2025 Joshua G. Wong 3.1 – RT from SF to depo in Santa Rosa	.5
05/28/2025 Joshua G. Wong 1.0 – Local RT in SF for depo	1.0
06/04/2025 Joshua G. Wong 1.0 – Local RT in SF for depo	1.0
06/12/2025 Joshua G. Wong 1.0 – Local RT in SF for depo	1.0
06/24/2025 Joshua G. Wong 1.0 – Local RT in SF for depo	1.0
<b>Hours requested: 7.1</b>	<b>Hours awarded: 4.5</b>
<b>Difference between hours requested and hours awarded that shall be deducted from fees award:</b>	<b>2.6</b>

Steven W. Yuen:

Hours requested:	Hours awarded:
07/18/2025 Steven W. Yuen 2.9 – RT from SF to Court	0.4
07/22/2025 Steven W. Yuen 2.9 – RT from SF to Court	0.4
07/23/2025 Steven W. Yuen 2.9 – RT from SF to Court	0.4
07/24/2025 Steven W. Yuen 2.9 – RT from SF to Court	0.4
07/25/2025 Steven W. Yuen 2.9 – RT from SF to Court	0.4
07/29/2025 Steven W. Yuen 2.9 – RT from SF to Court	0.4
07/30/2025 Steven W. Yuen 2.9 – RT from SF to Court	0.4
07/31/2025 Steven W. Yuen 2.9 – RT from SF to Court	0.4
08/01/2025 Steven W. Yuen 2.9 – RT from SF to Court	0.4
08/12/2025 Steven W. Yuen 2.9 – RT from SF to Court	0.4
08/13/2025 Steven W. Yuen 2.9 – RT from SF to Court	0.4
08/14/2025 Steven W. Yuen 2.9 – RT from SF to Court	0.4
08/15/2025 Steven W. Yuen 2.9 – RT from SF to Court	0.4
08/19/2025 Steven W. Yuen 0.2 – local travel from Court to Pl firm	0.2
08/19/2025 Steven W. Yuen 1.5 – One way travel from Pl firm to SF	0.2
08/20/2025 Steven W. Yuen 2.9 – RT from SF to Court	0.4
08/21/2025 Steven W. Yuen 2.9 – RT from SF to Court	0.4
08/22/2025 Steven W. Yuen 2.9 – RT from SF to Court	0.4
08/26/2025 Steven W. Yuen 2.9 – RT from SF to Court	0.4
08/27/2025 Steven W. Yuen 2.9 – RT from SF to Court	0.4
08/28/2025 Steven W. Yuen 2.9 – RT from SF to Court	0.4
08/29/2025 Steven W. Yuen 2.9 – RT from SF to Court	0.4
09/02/2025 Steven W. Yuen 2.9 – RT from SF to Court	0.4
09/03/2025 Steven W. Yuen 2.9 – RT from SF to Court	0.4

09/04/2025 Steven W. Yuen 2.9 – RT from SF to Court	0.4
09/05/2025 Steven W. Yuen 2.9 – RT from SF to Court	0.4
09/09/2025 Steven W. Yuen 1.5 – One way from SF office to temp office in Santa Rosa	0
09/09/2025 Steven W. Yuen 2.9 ( <b>Duplicate</b> )-RT from SF to Court	0
09/10/2025 Steven W. Yuen 0.4 – Local RT trip from Santa Rosa temp office to Court	0.4
09/11/2025 Steven W. Yuen 0.4 - Local RT trip from Santa Rosa temp office to Court	0.4
09/12/2025 Steven W. Yuen 0.2 – Local one way from Santa Rosa temp office to Court	0.2
09/12/2025 Steven W. Yuen 1.5 – One way travel from Court to SF	0.2
09/16/2025 Steven W. Yuen 2.9 – RT from SF to Court	0.4
Hours requested: 81.1	Hours awarded: 11.6
<b>Difference between hours requested and hours awarded that shall be deducted from fees award:</b>	69.5

### *Block Billing*

Cross-Complainants argue that Courts routinely reduce block-billed time entries and the Court should do so here. Cross-Complainants do not point to any specific time entries that they contend are block-billed. They just generally seek a reduction of 60 hours for block-billed time. This argument is not persuasive as the Court finds the total number of hours requested, after the reductions explained above, to be reasonable.

### *Communicating with Special Master*

Cross-Complainants argue Cross-Defendants should not recover time spent communicating with the Special Master since the Special Master was appointed solely as a result of Cross-Defendants’ own strategic decision to seek complex designation in connection with his Subcontractor Cross-Complaint. This argument is unpersuasive because the Special Master also acted as the Discovery Referee and handled issues of discovery relating to all parties’ claims. Communicating with him was necessary to the litigation. The issues handled by the Special Master/Discovery Referee are inextricably intertwined and need not be apportioned.

### *Subcontractor Cross-Complaint Work*

Cross-Complainants’ final argument is that the work performed in connection with the Subcontractor Cross-Complaint is not recoverable since Cross-Defendants did not prevail on the Subcontractor Cross-Complaint and since it was a separate litigation track undertaken at Cross-Defendants’ own election. The Court does not agree that this work can, or should, be separated from

the remainder of the work done to defend against the Cross-Complaint. The filing of the Subcontractor Cross-Complaint seeking indemnity and contribution was a direct result of the crossclaims raised against Cross-Defendants regarding failure to perform their obligations under the agreement in a workmanlike manner.

The language of the attorney’s fees provision of the parties’ agreement is broad. It provides,

In the event the parties hereto become *involved in litigation* or arbitration *arising out of this Contract or the performance or breach thereof*, the court in such litigation or arbitration or in separate suit shall award reasonable costs, expenses and attorney fees to the prevailing party. The court shall not be bound by any court fee schedule and in the interest of justice award the full amount of costs, expenses and attorney fees *incurred in good faith*.

(Italics added.) The language of this provision is broad enough to apply to crossclaims against subcontractors because such claims arise out of the performance or alleged breach of the contract.

Cross-Defendant’s claims against their subcontractors are inextricably intertwined with the remainder of the litigation. “[W]here issues of indemnity and liability overlap, apportionment is not required...” (*Maxim Crane Works, L.P. v. Tilbury Constructors* (2012) 208 Cal.App.4th 286, 299.)

The fact that Cross-Defendants only recovered from a number of the subcontractors is immaterial. Cross-Defendants prevailed against the crossclaims raised by Cross-Complainants. It was reasonable for Cross-Defendants to seek indemnity and contribution for such crossclaims from their subcontractors. Fees related to such claims were reasonably incurred in good faith.

*Conclusion*

The hourly rates and number of hours attributed to each attorney shall be as follows:

Attorney:	Hourly rate:	Hours requested:	Hours reduced:	Hours Awarded:	Total:
Steven W. Yuen	\$550	252	69.5	182.5	\$100,375.00
Stephen B. Heath	\$550	904.8	68.3	836.5	\$460,075.00
Matthew J. Kracht	\$550	71.2	71.2	0	\$0
Paul A. Vaillancourt	\$550	195.3	195.3	0	\$0
Joshua G. Wong	\$475	632	2.6	629.4	\$298,965.00
Prova Ahmed	\$425	1.7	0	1.7	\$722.50
			Totals:	1,650.1	\$860,137.50

As explained above, the overall paralegal time shall be reduced by 50%. The total number of hours granted for paralegal time is 381.95. The award for paralegal fees is \$52,518.13.

The total fees award to Cross-Defendants shall be \$912,655.63.

### III. Costs

Cross-Defendants filed a memorandum of costs on December 20, 2025, seeking \$84,778.08 in costs. Cross-Complainants seek to strike Cross-Defendants' costs memorandum, or in the alternative, to tax it by the following amounts:

1. Item 1 – Filing and Motion Fees – \$1,540.00
2. Item 2 – Jury Fees – \$182.40
3. Item 5 – Service of Process – \$3,975.71
4. Item 14 – Electronic Filing or Service Fees – unable to calculate
5. Item 15 – Other – \$12,891.26

#### *Filing and Motion Fees*

Cross-Complainants seek to tax Cross-Defendants' filing fees relating to ex parte applications and complex case designation which were supposedly necessitated by the Subcontractor Cross-Complaint. As explained above, the Court finds the fees and costs associated with the Subcontractor Cross-Complaint to be compensable. The Court finds these costs to have been reasonably necessary to make litigation effectual for Cross-Defendants. Accordingly, neither of these items shall be taxed.

#### *Jury Fees*

Cross-Complainants do not contest jury fees. However, they contend that the Memorandum of Costs incorrectly lists jury fees as \$6,220.44 while the correct amount is \$6,038.04 as reflected on Attachment 2e. Cross-Defendants have revised this request and now seek \$6,023.60 in jury fees. Accordingly, jury fees shall be taxed by \$196.84.

#### *Service of Process*

Cross-Complainants seek to tax the costs relating to serving process of the Subcontractor Cross-Complaint. As explained above, these fees are compensable.

#### *Electronic Filing and Service Fees*

Cross-Complainants raise the same argument here that electronic filings and service fees relating to the Subcontractor Cross-Complaint should be taxed. As above, this argument is not persuasive.

While Cross-Defendants did not attach supporting documentation to the memorandum of costs for these fees, they have now provided this documentation in opposition to this motion. The Court finds the requested costs for electronic filing and service to be reasonable.

### *“Other” Costs*

Cross-Defendants seek \$12,891.06 in “other” costs. As demonstrated in Attachment 15 to Cross-Defendants’ memorandum of costs, these “other” costs are mediation fees. Cross-Defendants argue that mediation was voluntary and undertaken as a strategic effort to resolve the case without trial.

Mediation costs are not mentioned as recoverable costs in CCP § 1033.5. However, costs not mentioned in CCP § 1033.4 may be allowed or denied in the Court’s discretion. (CCP § 1033.5(c)(4). Such costs “shall be reasonably necessary to the conduct of the litigation rather than merely convenient or beneficial to its preparation” and “shall be reasonable in amount.” (CCP § 1033.5(c)(2)-(3).)

A special master having been appointed by the court, his or her fee is analogous to the award of “[f]ees of expert witnesses ordered by the court.” [Citation.] The expense of court-appointed experts is first apportioned and charged to the parties, and then the prevailing party’s share is allowed as an item of costs. [Citation.]

The trial court acted well within the broad discretion granted to it by section 1033.5, subdivision (c)(4), when it allowed the special master fees as an item of costs.

*(Winston Square Homeowner’s Assn. v. Centex West, Inc. (1989) 213 Cal.App.3d 282, 293.)*

“Several appellate courts have held the fees of various court-appointed assistants necessary for the conduct of civil litigation, including special masters, referees and arbitrators, constitute statutory costs that may be awarded under section 1033.5, subdivision (c)(4).” *(Southern California Sunbelt Developers, Inc. v. Banyan Limited Partnership (2017) 8 Cal.App.5th 910, 931.)*

Here, the Court found the appointment of a Special Master/Discovery Referee to be “necessary and practical” for the coordination of depositions, expert witness, and testing. The costs associated with the Special Master/Discovery Referee were reasonable and necessary. They are compensable.

**\*\*\*This is the end of the Tentative Rulings\*\*\***