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Superior Court of California,  
County of Los Angeles  
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David W. Slayton,  
Executive Officer/Clerk of Court,  
By E. Chanes, Deputy Clerk

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8 Attorneys for Plaintiff/Cross-Defendant  
WnG CONSTRUCTION JV, INC.

9  
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **COUNTY OF LOS ANGELES – SOUTHEAST DISTRICT (NORWALK)**

12 WnG CONSTRUCTION JV, INC., a  
California Corporation,

13  
14 Plaintiff,

15 v.

16 AAA SOLAR ELECTRIC, INC.; AAA  
NETWORK SOLUTIONS aka AAA  
17 NETWORK SOLUTIONS, INC.; LOS  
ANGELES UNIFIED SCHOOL DISTRICT;  
18 PHILADELPHIA INDEMNITY  
INSURANCE COMPANY; DOES 1 to 25,

19  
20 Defendants.

21 AAA SOLAR ELECTRIC, INC.,

22 Cross-Complainant,

23 v.

24 WnG CONSTRUCTION JV, INC., a  
California corporation; and ROES 1 through  
25 160, inclusive,

26 Cross-Defendants.

Case Number: VC065473

**NOTICE OF ENTRY OF ORDER  
GRANTING PLAINTIFF'S MOTION  
FOR INTERIM PRE-JUDGMENT  
ATTORNEY FEES**

Assigned to: Hon. Joseph R. Porras

Dept.: G

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 On August 18, 2023, in Department G of the above-entitled court, located at 12720  
3 Norwalk Blvd., Norwalk, CA 90650, the Court granted a motion awarding Interim Pre-Judgment  
4 Attorney Fees in favor of Plaintiff/Cross-Defendant WNG CONSTRUCTION JV, INC., and  
5 against Defendants/Cross-Complainants AAA SOLAR ELECTRIC, INC., AAA NETWORK  
6 SOLUTIONS, INC., PHILADELPHIA INDEMNITY INSURANCE COMPANY, and SAFETY  
7 NATIONAL CASUALTY CORP., jointly and severally, in the amount of \$1,309,102.00  
8 (hereinafter the "Order"). A true and correct copy of the Order is attached hereto as **Exhibit**  
9 **"A."**

10  
11  
12 DATED: August 24, 2023

**LAW OFFICES OF THOMAS F. NOWLAND**

13 /s/ Thomas F. Nowland  
14 BY: \_\_\_\_\_  
15 Thomas F. Nowland, Esq.  
16 Daniel A. Brodnax, Esq.  
17 Attorneys for Plaintiff/Cross-Defendant WnG  
18 CONSTRUCTION JV, INC.

**STONE LLP**

19 /s/ Elliott H. Stone  
20 BY: \_\_\_\_\_  
21 Elliott H. Stone, Esq.  
22 Robert S. Throckmorton, Esq.  
23 Attorneys for Plaintiff/Cross-Defendant WnG  
24 CONSTRUCTION JV, INC.

# EXHIBIT A

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

**Civil Division**

Southeast District, Norwalk Courthouse, Department G

**VC065473**

**WnG CONSTRUCTION JV, INC. VS. AAA SOLAR  
ELECTRIC, INC.**

August 18, 2023

2:16 PM

Judge: Honorable Joseph R. Porras  
Judicial Assistant: J. Dominguez  
Courtroom Assistant: None

CSR: None  
ERM: None  
Deputy Sheriff: None

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**APPEARANCES:**

For Plaintiff(s): No Appearances

For Defendant(s): No Appearances

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**NATURE OF PROCEEDINGS:** Ruling on Submitted Matter

The Court, having taken the matter under submission on 07/21/2023 for Hearing on Motion to Tax Costs, now rules as follows: WNG CONSTRUCTION JV, INC. v. AAA SOLAR ELECTRIC, INC.

CASE NO.: VC065473

HEARING: 07/21/23

**ORDER**

The Court has reviewed the parties' briefs and considered the arguments raised at the hearing, and rules as follows:

I. Plaintiff/Cross-Defendant WNG CONSTRUCTION JV, INC.'s Motion for Interim Pre-judgment Attorney Fees is GRANTED in part in the reduced amount of \$1,309,102.00.

II. Defendant/Cross-Complainant AAA SOLAR ELECTRIC, INC; and Defendants PHILADELPHIA INDEMNITY INSURANCE COMPANY and SAFETY NATIONAL CASUALTY CORP.'s Motion to Strike or Tax Costs is GRANTED in part in the amount of \$126,814.07.

Moving Party(s) to give Notice.

Motion for Interim Pre-Judgment Attorney's Fees

Plaintiff/Cross-Defendant WNG CONSTRUCTION JV, INC. ("WnG") moves for attorney's fees in the amount of \$2,752,316.55.

In Opposition, Defendant/Cross-Complainant AAA SOLAR ELECTRIC, INC; and Defendants

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

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PHILADELPHIA INDEMNITY INSURANCE COMPANY and SAFETY NATIONAL CASUALTY CORP. (collectively “AAA”) argue the following:

- WnG is not the prevailing party;
- WnG failure to conduct settlement discussion is a condition precedent to the collection of fees;
- The Court found no basis for recovery under B&P §7108.5 and Public Contract Code §7107;
- WnG is not entitled to any “market adjustments”; and
- WnG accounting for fees is inflated, improper, or invalid and any fee award should be reduced.

**Whether WnG is the Prevailing Party**

Cal. Civ. Code §1717(a)(1) provides attorney’s fees to the prevailing party in any action on a contract where the contract specifically provides that attorney’s fees and costs shall be awarded to the prevailing party. “If... the contract allows the prevailing party to recover attorney fees but does not define ‘prevailing party’ or expressly either authorize or bar recovery of attorney fees in the event an action is dismissed, a court may base its attorney fees decision on a pragmatic definition of the extent to which each party has realized its litigation objections, whether by judgment, settlement, or otherwise. [Citation.]” (Santisas v. Goodin (1998) 17 Cal.4th 599, 622.) In Santisas, the Court looked to the parties’ respective litigation objections and who “prevailed” in achieving them. Applying that same line of reasoning here, it is clear which party obtained the majority of its litigation objectives: WnG.

The Amended Judgment entered on May 9, 2023 states in pertinent part: “Judgment is entered for Plaintiff WnG Construction JV, Inc., on its Complaint against Defendants AAA SOLAR ELECTRIC, INC., AAA NETWORK SOLUTIONS, INC., PHILADELPHIA INDEMNITY INSURANCE COMPANY, and SAFETY NATIONAL CASUALTY CORP...jointly and severally for: [¶] The principal sum of \$1,861,054.44 (\$2,355,943.44 less \$494,889 that AAA paid for demolition), plus 10% prejudgment interest from the date of July 6, 2016 to April 3, 2023 totaling \$1,255,319.39 in prejudgment interest.” (Am. Judgment, 05/09/23.)

WnG obtained a Judgment in the amount of \$1,861,054.44, plus \$1,255,319.39 in prejudgment interest. Although the ultimate Judgment awarded is less than the initial Judgment sought (\$2,358,244.97), WnG’s outcome was ultimately more favorable than AAA’s. The fact that AAA received an offset in the amount of \$494,889 does not change the fact that WnG obtained the majority of its litigation objections, and AAA did not. WnG is the prevailing party of this action. Consequently, WnG has established an entitlement to reasonable attorney’s fees.

**Whether WnG is Barred From an Attorney’s Fees Award by the Subcontracts**

WnG is not barred from an award of attorney’s fees by the subcontracts. Section 34.1 of the

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

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subcontracts requires that disputes be submitted to alternate dispute resolution before initiating litigation. However, 34.1 does not overrule or otherwise invalidate Clause 34.3 of the subcontracts which expressly state: "In the event either Party commences a legal proceeding (including litigation or arbitration) against the other Party pertaining to this Subcontract, the prevailing Party in such proceeding shall be entitled to recover from the non-prevailing Party all reasonable attorney's fees, expert fees, costs and other expenses incurred in connection therewith." (Plaintiff's Exhibit 1-031.)

**Reasonableness**

WnG's motion seeks fees based on billing rates broken down as follows:

Law Firm Rates Sought Total Paid by Client Total Sought

Law Offices of James L. Miller • James L. Miller - \$225/hr. \$222,987.05 \$222,987.05

Cummins & White, LLP • Anna A. Dixon - \$245/hr.

• Shannon M. Thompson - \$245/hr.

• James R. Wakefield, P.C. - \$450/hr.

• Edward J. Farrell - \$335/hr.

• Siohan Bishop - \$425/hr.

• Patricia Ann League - \$245/hr.

• Rebecca L. Hetcheson - \$245/hr. \$653,433.40 \$653,433.40

Law Offices of Thomas Nowland • Thomas F. Nowland - \$750/hr.;

• Sean Janzen - \$400/hr.;

• Sarah O'Brien - \$400/hr.;

• Joseph F. Desiderio - \$400/hr.

• Daniel Brodnax - \$450/hr.

• Law Clerks w/J.D. - \$300/hr.

• Non J.D. Law Clerks - \$200/hr.

• Secretaries - \$125/hr.

\$1,093,197.00 \$1,206,197.00

Stone LLP • Elliot H. Stone - \$450/hr.

• Robert Throckmorton - \$350/hr. \$349,620.00 \$615,300.00

Bernedon & Serlin, LLP • Melinda W. Ebelhar - \$825/hr.

• Law Clerk (Brandon White) - \$150/hr. \$44,599.20 \$44,599.20

Callahan & Blaine • Peter Bauman - \$504/hr.

• Javier Van Oordt - \$536/hr.

• Ty Reed - \$195/hr. \$9,800.00 \$9,800.00

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The matter of reasonableness of a party's attorney fees is within the sound discretion of the trial

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

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court. (*Bruckman v. Parliament Escrow Co.* (1989) 190 Cal.App.3d 1051, 1062.) When assessing the amount of any attorney’s fee award, courts typically determine what is reasonable through the application of the “lodestar” method. Under the lodestar method, a base amount is calculated from a compilation of (1) time reasonably spent and (2) the reasonable hourly compensation of each attorney. (*Serrano v. Priest* (“*Serrano III*”) (1977) 20 Cal.3d 25, 48); (See also *Meister v. Regents of University of California* (1998) 67 Cal.App.4th 437, 448-449 holding that the lodestar method applies to statutory attorney fees award unless the underlying statute provides for another method of calculation). Normally, a “reasonable” hourly rate is the prevailing rate charged by attorneys of similar skill and experience in the relevant community. (*PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095.) That amount may then be adjusted through the consideration of various factors, including “(1) the novelty and difficulty of the questions involved, (2) the skill displayed in presenting them, (3) the extent to which the nature of the litigation precluded other employment by the attorneys, and (4) the contingent nature of the fee award.” (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132.) The Court is vested with discretion to determine which claimed hours were reasonably spent, and what an attorney’s reasonable hourly rate is. (*Dover Mobile Estates v. Fiber Form Products, Inc.* (1990) 220 Cal.App.3d 1494, 1501); (See also *Flannery v. California Highway Patrol* (1987) 61 Cal.App.4th 629, 644.) [“We readily acknowledge the discretion of the trial judge to determine the value of professional services rendered in his or her court.”].

Law Office of James L. Miller

WnG has not established an entitlement to fees attributed to work performed by Attorney James L. Miller in the amount of \$222,987.05. On January 19, 2018, the Court granted a Motion to Disqualify Mr. Miller as counsel of record of WnG. “The general rule is that an attorney disqualified for violating an ethical obligation is not entitled to fees. [Citation.]” (*A.I. Credit Corp., Inc. v. Aguilar & Sebastinelli* (2003) 113 Cal.App.4th 1072, 1079.)

The Court additionally finds that a great deal of the work conducted by Mr. Miller (especially pertaining to discovery) had to be duplicated by proceeding counsel in the case, and that Mr. Miller’s violations likely contributed to the unnecessary extension of this litigation. Moreover, the Motion for Summary Adjudication filed by Mr. Miller was ultimately denied.

Cummins & White, LLP

WnG has not established an entitlement to fees attributed to work performed by Cummins & White, LLP in the amount of \$653,433.40. At the time Cummins & White substituted into this litigation, the main issue pending between the parties related to WnG’s production of missing emails from addresses used by Daniel Rodriguez. After approximately a year of extensive law

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

**Civil Division**

Southeast District, Norwalk Courthouse, Department G

**VC065473**

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and motion practice, and a forensic audit, it was revealed that Daniel Rodriguez's primary email account was deleted. The Court ultimately found that WnG had engaged in the intentional and deliberate spoliation of evidence. (Heravi Decl., Ex. 49.) All the while, WnG maintained that all responsive emails had been produced or no longer existed. Most, if not all, of Cummins & White's participation in the case focused on thwarting AAA's repeated attempts to get WnG to produce relevant discovery. Cummins & White withdrew as counsel of record for WnG on August 6, 2019.

Law Office of Thomas Nowland

WnG seeks to recover the total sum of \$1,206,197.00 (\$1,093,197.00 + \$113,000.00 market adjustment for Attorney Nowland) with respect to attorney's fees attributed to work performed by the Law Office of Thomas Nowland. This figure includes \$133,715.00 for 656 hours of work completed by Law Clerks with J.D.'s, non-J.D. law clerks, and secretaries.

Although WnG was only charged \$500/hr. for Attorney Nowland's work, WnG maintains that it is entitled to a price market adjustment based on the Declarations of Thomas Nowland (Nowland Decl., ¶¶20-23) and Richard M. Pearl (Pearl Decl., ¶12.). Consequently, WnG seeks to recoup a \$750 hourly rate for Attorney Nowland's work. To support this argument, Attorney Nowland relies upon the Laffey Matrix, which apparently calculates his reasonable hourly rate as \$829/hr. However, the Laffey Matrix is the primary tool for assessing legal fees in the Washington-Baltimore area—not Los Angeles County. Attorney Nowland also includes a brief description of his legal career and a list of his credentials. (Nowland Decl., ¶¶3-10.) However, WnG and Attorney Nowland introduce little by way of evidence concerning the various Lodestar factors considered when awarding an enhancement. Importantly, although time-consuming, the issues presented by this action do not involve particularly complex or novel issues of law. At its core, this is a breach of contract action. Moreover, Attorney Nowland submits no evidence regarding the contingent nature of their arrangement with WnG or the necessity of foregoing other work in favor of the instant action.

The Court does not find that WnG is entitled to the market adjustment sought as it pertains to Attorney Nowland. The Court finds the charged rates of \$500/hr. for Attorney Nowland to be reasonable under the circumstances. The Court's determination is undertaken in the exercise of its discretion to determine whether or not rates or hours are reasonable. (*Dover Mobile Estates v. Fiber Form Products, Inc.* (1990) 220 Cal.App.3d 1494, 1501.)

The Court further reduces the award as to the Law Office of Thomas Nowland by \$133,715.00 reflective of the 656 hours of work completed by Law Clerks with J.D.'s, non-J.D. law clerks, and secretaries. The work performed by law clerks is duplicative of the work completed by



**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

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**VC065473**

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licensed attorneys, and the work completed by secretaries consist mainly of clerical or administrative tasks. The Law Office of Thomas Nowland cannot reasonably bill \$125/hr. for such tasks.

With respect to the Law Offices of Thomas Nowland, WnG has established an entitlement to reasonable fees in the amount of \$959,482.00.

The Supplemental Declaration of Mark A. Feldman (filed on July 14, 2023) states that WnG improperly requested \$1,093,197.00 in reimbursement for fees billed by this firm. Mr. Feldman argues, however, that the Law Offices of Thomas Nowland only actually billed \$824,004.98, (Supp. Feldman Decl., ¶¶17-18.) Attached to the Second Supplemental Declaration of Mark A. Feldman (filed on July 20, 2023) is a spreadsheet that Mr. Feldman purports reflects the amount of attorney's fees actually billed by the Law Offices of Thomas Nowland to WnG. The Court has reviewed this spreadsheet, in conjunction with the exhibits attached to the Notice of Errata filed by WnG on June 7, 2023.

Mr. Feldman's spreadsheet is replete with inaccuracies. For example, Mr. Feldman declares that from 12/16/21 – 12/23/21, the Law Offices of Thomas Nowland billed a subtotal of \$12,027.50 (before the 25% discount) and then charged \$9,008.73. However, upon the Court's review and re-calculation of the 12/16/21 – 12/23/21 invoice, the Law Office of Thomas Nowland actually billed a subtotal of \$12,075.08, and after application of a 25% discount, billed out \$9,056.31 (as accurately reflected in the invoice). Also, the Supplemental Declarations of Mr. Feldman reference page numbers in the 600s, 700s, 900s, and 1000s range. As explained by WnG in its Surreply, the Notice of Errata cleared up any issues with duplicates and only goes up to 588 pages.

Stone LLP

WnG seeks to recover the total sum of \$615,300.00 (\$349,620.00 + \$118,980.00 market adjustment for Attorney Stone's work + \$146,700.00 for Attorney Throckmorton's work).

Although WnG was only charged \$450/hr. for Attorney Stone's work, and \$350/hr. for Attorney Throckmorton's work, WnG maintains that it is entitled to price market adjustments of \$750/hr. for Attorney Stone and \$650/hr. for Attorney Throckmorton based on the Declarations of Elliott H. Stone (Stone Decl., ¶¶12-17) and Richard M. Pearl (Pearl Decl., ¶12.). Consequently, WnG seeks to recoup a \$750 hourly rate for Attorney Nowland's work. To support this argument, Attorney Stone relies upon the Laffey Matrix, which apparently calculates their reasonable hourly rates as \$829/hr. and \$997/hr. However, the Laffey Matrix is the primary tool for assessing legal fees in the Washington-Baltimore area—not Los Angeles County. Attorney Stone also includes a brief description of his and Attorney Throckmorton's legal careers and their credentials. (Stone Decl., ¶¶3-17.) However, similar to the Court's analysis above, WnG and Attorney Stone introduce little by way of evidence concerning the various Lodestar factors

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

**Civil Division**

Southeast District, Norwalk Courthouse, Department G

**VC065473**

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considered when awarding an enhancement. Importantly, although time-consuming, the issues presented by this action do not involve particularly novel issues of law. At its core, this is a breach of contract action. Moreover, Attorney Stone submits no evidence regarding the contingent nature of their arrangement with WnG or the necessity of foregoing other work in favor of the instant action.

The Court does not find that WnG is entitled to the market adjustment sought as it pertains to Attorneys Stone and Throckmorton.

The Court finds the charged rates of \$450/hr. for Attorney Stone and \$350/hr. for Attorney Throckmorton to be reasonable under the circumstances. The Court's determination is undertaken in the exercise of its discretion to determine whether or not rates or hours are reasonable. (*Dover Mobile Estates v. Fiber Form Products, Inc.* (1990) 220 Cal.App.3d 1494, 1501.)

**Bernedon & Serlin and Callahan & Blaine**

The Court does not find that WnG is entitled to recover fees from attorneys or law firms who do not represent and have never represented WnG in this action. To the extent that these law firms may represent WnG in or regarding post-trial (appellate matters)—those fees are prematurely sought at this time.

Therefore, the Court further reduces WnG's fee request by \$44,599.20 and another \$9,800.00.

**Conclusion**

Ultimately, the Court finds that WnG has established an entitlement to reasonable fees in the reduced amount of \$1,309,102.00. The Court's determination is undertaken in the exercise of its discretion to determine whether or not rates or hours are reasonable. (*Dover Mobile Estates v. Fiber Form Products, Inc.* (1990) 220 Cal.App.3d 1494, 1501.)

**Motion to Strike or Tax Costs**

On April 17, 2023, WnG filed a Memorandum of Costs which seeks total costs in the amount of \$205,279.72.

AAA moves to strike or tax the following items in WnG's Proposed Memo of Costs:

- (1) The "filing and motion fees" listed on Item 1 in the total amount of \$5,935.36;
- (2) "Deposition costs" listed on Item 4 in the total amount of \$33,120.25;
- (3) "Service of Process" costs listed as Item 5 in the total amount of \$5,552.40;
- (4) "Witness fees" listed in Item 8 in the total amount of \$90,843.93;
- (5) "Court-ordered transcripts" in Item 9 in the total amount of \$1,630.55;

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

**Civil Division**

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- (6) "Court reporter fees as established by statute" in Item 11 in the total amount of \$40,842.53;  
(7) "Models, enlargements and photocopies of exhibits in Item 12 in the total amount of \$4,954.35; and  
(8) "Other" costs listed in Item 16 in the total amount of \$22,398.26.

WnG filed a Memorandum of Costs on April 17, 2023 (served electronically and by U.S. Mail on April 17, 2023). Pursuant to CRC Rule 3.1700(b)(1), "[a]ny notice of motion to strike or tax costs must be served and filed 15 days after service of the cost memorandum." "The failure to file a motion to tax costs constitutes a waiver of the right to object." (Douglas v. Willis (1994) 27 Cal.App.4th 287, 289.) "After the time has passed for a motion to strike or tax costs or for determination of that motion the clerk must immediately enter the costs on the judgment." (CRC Rule 3.1700(b)(4).) 15 calendar days from April 17, 2023 is May 2, 2023. Since the Memorandum of Costs was served electronically, the deadline to file and serve the motion is extended by 2 court days to May 4, 2023. The instant Motion was timely filed and served on May 4, 2023.

Allowable costs under CCP §1033.5 must be reasonably necessary to the conduct of the litigation, rather than merely convenient or beneficial to its preparation, and must be reasonable in amount. An item not specifically allowable § 1033.5(a) nor prohibited under subdivision (b), may nevertheless be recoverable in the discretion of the court under subdivision (c) if it meets the above requirements (i.e., reasonably necessary and reasonable in amount). If the items appearing in a cost bill appear to be proper charges, the burden is on the party seeking to tax costs to show that they were not reasonable or necessary. (Ladas v. California State Automotive Assoc. (1993) 19 Cal.App.4th 761, 773-774,) However, "[i]f the items appear to be proper charges, the verified memorandum is prima facie evidence that the costs, expenses and services therein listed were necessarily incurred by the defendant [citations], and the burden of showing that an item is not properly chargeable or is unreasonable is upon the [objecting party]." (Id., at 699.) The court's first determination, therefore, is whether the statute expressly allows the particular item and whether it appears proper on its face. If so, the burden is on the objecting party to show it to be unnecessary or unreasonable. (Nelson v. Anderson (1999) 72 Cal.App.4th 111, 131.)

Item No 1: Filing and Motion Fees (\$5,935.36)

Messenger fees, court connect fees, and fees incurred for reserving hearing dates are not "filing or motion fees". WnG shall only be permitted its actual statutory court filing fees. All other costs claimed as filing fees are stricken.

However, WnG has established an entitlement to the \$150 jury fee deposit paid. Jury fees are a

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

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reasonably necessary expense, even if the parties later stipulated to a bench trial at a later date. The Motion is DENIED as to the request to strike jury fees. The motion to tax Item 1 is GRANTED in the amount of \$5,050.36.

**Item No. 4: Deposition Costs (\$33,120.25)**

The costs of taking, videotaping, and transcribing depositions are specifically allowable under CCP §1033.5(a)(3) even if the deposition is not used at trial. The necessity for a deposition and for the related expenditures is a question for the trial court's sound discretion. (Thon v. Thompson (1994) 29 Cal.App.4th 1546; 1549.) The burden of proof that the deposition was unnecessary or that the costs of taking the deposition were unreasonable is on the party seeking to have them taxed or reduced. (Ibid) Moving party has not met its burden of showing that the costs were unnecessary or unreasonable. The motion to tax costs as to Item No. 4 is DENIED.

**Item No. 5: Service of Process (\$5,552.40)**

The costs for service of process are specifically allowable under CCP §1033.5(a)(4). However, CCP 1033.5(b)(3) specifically excludes recovery of "postage" costs in relation to litigation. The motion to tax costs as to Item No. 5 is GRANTED in the amount of \$1,032.20.

The motion to tax "duplicates" on the list of parties served is DENIED.

**Item No. 8: Witness Fees (\$90,843.93)**

"If an offer made by a plaintiff is not accepted and the defendant fails to obtain a more favorable judgment or award in an action or proceeding other than an eminent domain action, the court or arbitrator, in its discretion, may require the defendant to pay a reasonable sum to cover postoffer costs of the services of expert witnesses, who are not regular employees of any party, actually incurred and reasonably necessary in either, or both, preparation for trial or arbitration, or during trial or arbitration, of the case by the plaintiff, in addition to plaintiff's costs." (emphasis added) (CCP §998(d).)

WnG submitted its Offer to Compromise in June of 2019 in the amount of \$2,355,249. The Offer was not accepted. Judgment was entered in favor of WnG. CCP §998(d) only allows a party to recover "postoffer" expert fees when an offer is rejected and the plaintiff obtains a more successful judgment.

In Opposition, WnG fails to identify whether the expert fees sought herein are pre-offer or post-offer fees. The Motion is GRANTED in the amount of \$90,843.93.

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

**Civil Division**

Southeast District, Norwalk Courthouse, Department G

**VC065473**

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Item 9: Court Ordered Transcripts (\$1,630.55)

CCP §1033.5(a)(9) allows for recovery of transcript costs when such transcripts are “ordered by the Court.”

It is undisputed that none of the transcripts for which costs are sought were incurred via court-order. The motion to tax is GRANTED in the amount of \$1,630.55.

The Court declines to exercise its discretion to award these costs under CCP §1033.5(c)(4).

Item No. 11: Models, Blowups, and Photocopies of Exhibits (\$4,954.35)

“Models and enlargements of exhibits and photocopies of exhibits may be allowed if they were reasonably helpful to aid the trier of fact.” (CCP § 1033.5(a)(12).)

The motion to tax costs of Item No. 11 is GRANTED in the amount of \$4,114.82.

Item No. 12: Court Reporter Fees (\$40,842.53)

The costs for court reporter fees are specifically allowable under CCP §1033.5(a)(11). It is undisputed that the parties agreed to split the court-reporter fees.

However, charges for additional or duplicate copies of transcripts are unsupported. The motion to tax costs of Item No. 12 is GRANTED in the amount of \$1,743.95.

Item No. 16. Other (\$22,398.26)

Items not mentioned in this section and items assessed upon application may be allowed or denied in the court’s discretion. (CCP §1033.5(c)(4).)

The motion to tax costs of Item No. 16 is GRANTED in the amount of \$22,398.26. The costs for the “other” items identified by WnG are not recognized costs under CCP §1033.5. Moreover, the Court does not find that WnG’s “other” costs were reasonable and necessary in furtherance of this litigation.

Conclusion

The Motion to Tax is GRANTED in the amount of \$126,814.07.

Evidentiary Objections

The Court declines to rule on the parties’ evidentiary objections There is no authority holding that the Court must rule on an evidentiary objection made in connection with a motion other than

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

**Civil Division**

Southeast District, Norwalk Courthouse, Department G

**VC065473**

**WnG CONSTRUCTION JV, INC. VS. AAA SOLAR  
ELECTRIC, INC.**

August 18, 2023

2:16 PM

Judge: Honorable Joseph R. Porras

Judicial Assistant: J. Dominguez

Courtroom Assistant: None

CSR: None

ERM: None

Deputy Sheriff: None

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a motion for summary judgment or an anti-SLAPP motion.

Appellate opinions confirm that some trial courts decline to rule on such objections. (Ashburn v. AIG Fin. Advisors, Inc., 234 Cal. App. 4th 79, 89, 90 (2015) (The trial court declined to rule on “14 pages of objections to evidence.”); Bradley v. Networkers Int’l, 211 Cal. App. 4th 1129, 1141 (2012) (trial court declined to rule on the defendant’s numerous evidentiary objections spanning 137 pages); Gorman v. Tassajara Dev. Corp., 178 Cal. App. 4th 44, 68 (2009) (trial court did not rule on evidentiary objections in connection with motion for attorney fees and costs); Laborers Pac. Sw. Reg’l Org. Coal. v. Gomez, No. D065958, 2015 Cal. App. Unpub. LEXIS 1971, at \*12 n.9 (Cal. Ct. App. Mar. 20, 2015) (trial court declined to rule on evidentiary objections in connection with motion for preliminary injunction); Odell v. Ferrari, No. H034385, 2010 Cal. App. Unpub. LEXIS 8022, at \*3 (Cal. Ct. App. Oct. 8, 2010) (trial court did not rule on evidentiary objections in connection with motion for preliminary injunction); In re Providian Credit Card Cases, No. A097482, 2003 Cal. App. Unpub. LEXIS 12000, at \*19 n.7 (Cal. Ct. App. Dec. 22, 2003) (trial court did not rule on evidentiary objections in connection with motion for attorney fees).

Certificate of Mailing is attached.

**PROOF OF SERVICE (CCP § 1013a(3))  
STATE OF CALIFORNIA, COUNTY OF ORANGE**

I am employed in the county of Orange, State of California. I am over the age of 18, and not a party to this action. My business address is printed below.

On the date stated below, I served the document described below in the manner described below on the persons stated below.

**XX BY FACSIMILE or EMAIL**

**BY MAIL:** I placed true copies of the documents described below in sealed envelopes addressed as stated below

I deposited the envelope(s) in the mail in the City and State stated below.

I left the envelopes in the area designated for outgoing mail. I am readily familiar with my firm's practice of collection and processing correspondence for mailing. Under that practice and in the ordinary course of business, it would be deposited with the U.S. postal service on the same day with postage thereon fully prepaid at the City and State described below. I am aware that, on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing.

**BY PERSONAL SERVICE:** I delivered the envelope(s) personally to Plaintiff's counsel at court.

**Document(s) Served:**

- Notice of Entry of Order Granting Plaintiff's Motion for Interim Pre-Judgment Attorney Fees

**Person(s) served and address(es):**

Mark A. Feldman  
Kevin K. Heravi  
11030 Santa Monica Blvd, Suite 109  
Los Angeles, CA 90025  
mfeldman@feldmanandassoc.com  
[kheravi@feldmanandassoc.com](mailto:kheravi@feldmanandassoc.com)

**Attorneys for:** AAA Solar Electric, Inc.;  
Philadelphia Indemnity Insurance Company;  
and Safety National, Inc.

**Date of Service:** August 24, 2023

**Date Executed:** August 24, 2023

**Place of Service:** Newport Beach, California

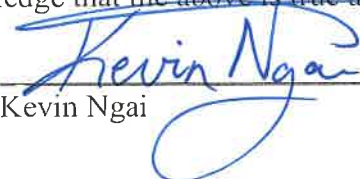
**Place Executed:** Newport Beach, California

**Name and Address of Person Signing:**

Kevin Ngai  
Law Offices of Thomas F. Nowland  
20241 SW Birch Street, Suite 203  
Newport Beach, CA 92660

I declare under penalty of perjury under the laws of the State of California and of my own personal knowledge that the above is true and correct.

Signature:

  
\_\_\_\_\_  
Kevin Ngai