

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF LOS ANGELES

CYRUS M. SANAI,

Case No. BC 235671

Plaintiff,

vs.

HARVEY A. SALTZ,

ORDER

Defendant

**RULING ON PLAINTIFF'S MOTION TO STRIKE DEFENDANTS'
"MOTION TO STRIKE PLAINTIFF'S MEMORANDUM OF COSTS
AFTER JUDGMENT"**

Defendants' Motion to Strike Plaintiff's Memorandum of Costs After Judgment is granted.

Defendants contend that the Court should strike Plaintiff's Memorandum of Costs because Plaintiff never properly served Memorandum of Costs and because it should have been presented to the Court as a noticed motion. Plaintiff replies that Defendants' motion to strike is untimely and will, in any event, be meaningless as a judgment has already been rendered including the costs requested and the time to file a motion to challenge that judgment expired in June.

Defendants are correct that Plaintiff's service was faulty and that the Memorandum of Costs should have been filed as a noticed motion. Plaintiff contends that, under CCP section 684.020(a), he was to serve the memorandum of costs on each "judgment debtor" rather than each judgment debtor's

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attorney. However, where service is made directly on a corporation, such as in a service of summons, service must be made on some person on behalf of the corporation, in recognition of the fact that a corporation is not a person. Plaintiff did not properly serve the corporate defendants (or their attorney) with his Memorandum of Costs, although he did properly serve defendant Harvey Saltz. See Exhibit H to Decl. Of Michael J. Saltz (Sanai Decl. Paragraph 3, Ex. C). Plaintiff's proof of service plainly did not list an officer or agent for service of process, only the corporations' addresses. See *id.* **This Court finds that Plaintiff intentionally altered court documents to show that certain individuals were served on behalf of corporate defendants.**

Although Plaintiff included in his Memorandum of Costs attorney's fees that he represents as legitimate under CCP section 685.040, that section allows only "[a]ttorney's fees incurred in enforcing a judgment...if the underlying judgment includes an award of attorney's fees to the judgment creditor..." Plaintiff listed over \$137,000 in such fees. It is hard to see how he could have incurred such fees simply in enforcing the judgment on appeal. Defendants' contend that the requested attorney' fees are further improper in that the underlying judgment did not include an award of attorney's fees.

Because attorney's fees are not "costs" properly claimed pursuant to Section 685.070(a), a memorandum including these costs are not "costs under this section," and the filing option in Section 685.070(b) is unavailable. By implication, a memorandum including these costs must be filed in accord with section 685.080 - by noticed motion.

This Court agrees with defendant that plaintiff prepared a Memorandum of Costs After Judgment, and requested certain costs, specifically attorney's fees, which appear dubious (although the Court will defer judgment on this issue until it has been properly briefed) without filing a noticed motion. Further, plaintiff's conduct appears to this Court to have been intended to file and serve this memorandum in a manner and time to prevent the parties from obtaining actual notice in time to challenge it.

This litigation has a long and sad history. The memorandum of costs

is just one more sad chapter, and this Court has no intention of allowing this or further similar chapters from governing the conduct of this case. Specifically,

1 YOU ASKED ME TO DO WITH RESPECT TO THE AGENTS FOR SERVICE OF
2 PROCESS?

3 **MR. SALTZ:** OBJECTION. BEYOND THE SCOPE OF REBUTTAL.

4 **THE COURT:** OVERRULED.

5 **THE WITNESS:** THAT THE SERVICE LIST DIDN'T SHOW WHO
6 AT THE COMPANIES WERE SERVED. SO, IF YOU KNEW, COULD YOU
7 WRITE THE NAME OF THE PERSON WHO WAS SERVED.

8 Q BY MR. SANAI: DID YOU SAY WHO?

9 A I --

10 Q DID YOU SAY IN THE STATEMENT WHO HAD BEEN
11 SERVED, OR DID YOU SPECIFICALLY STATE WHO THE AGENTS OF
12 SERVICE FOR PROCESS WERE?

13 A I'M NOT SURE NOW WHAT EXACTLY -- IF THAT WAS
14 EXACTLY RIGHT.

15 **THE COURT:** DID YOU ASK WHO HAD BEEN SERVED?

16 **THE WITNESS:** I JUST ASKED HIM TO -- IF HE KNEW WHO
17 AT THE COMPANY HAD BEEN SERVED.

18 **THE COURT:** OKAY.

19 **MR. SANAI:** YOUR HONOR --

20 **THE COURT:** YES.

21 **MR. SANAI:** NO MORE QUESTIONS. MAY I TAKE REBUTTAL?

22 **THE COURT:** ALL RIGHT. HAVE A SEAT.

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CYRUS SANAI

THE PLAINTIFF HEREIN, RECALLED ON
HIS OWN BEHALF AS A WITNESS, HAVING
BEEN PREVIOUSLY SWORN, RESUMED THE
STAND AND TESTIFIED FURTHER AS
FOLLOWS:

MR. SANAI: I'M STILL UNDER OATH.

THE COURT: YES.

MR. SANAI: MY RECOLLECTION, AND WHAT I UNDERSTOOD AT
THE TIME WAS, SHE WAS ASKING ME WHO WERE THE AGENTS FOR THE
SERVICE OF PROCESS.

THE COURT: WHY DO YOU THINK SHE ASKED THE QUESTION,
OUT OF CURIOSITY?

MR. SANAI: I HAVE NO IDEA.

THE COURT: ALL RIGHT. ANYTHING ELSE?

MR. SALTZ: NO, YOUR HONOR.

THE COURT: I HAVE NO MORE QUESTIONS. ALL RIGHT.

**MR. SANAI, I HAVE GREAT RESPECT FOR YOUR RESUME.
I NOTE YOU'RE A HARVARD UNDERGRAD, UCLA LAW SCHOOL, YOU'VE
WORKED FOR PRESTIGIOUS LAW FIRMS. YOU'RE, OBVIOUSLY, A
HIGHLY INTELLIGENT INDIVIDUAL.**

**I HAVE TO SAY HERE THAT YOUR TESTIMONY HERE DOES
NOT PASS THE STRAIGHT FACE TEST. THE NOTION THAT MS. PEREZ
WOULD BE ASKING YOU FOR NO REASONS WHO THE AGENTS FOR
SERVICE OF PROCESS WERE, PERHAPS FOR A CHRISTMAS CARD LIST
OR COCKTAIL PARTY, IS RIDICULOUS.**

I ACCEPT MS. PEREZ'S TESTIMONY THAT SHE GAVE YOU

1 THE ENTIRE DOCUMENT, WHICH YOU THEN ALTERED TO SHOW THAT
2 CERTAIN PEOPLE HAD BEEN SERVED, WHEN THEY HADN'T BEEN.

3 THAT'S A VERY SERIOUS, VERY SERIOUS THING, AND
4 FOR A PERSON WITH YOUR INTELLIGENCE AND YOUR TALENT TO DO
5 SOMETHING LIKE THAT IS DEEPLY TROUBLING TO ME.

6 I'VE HAD A CHANCE TO LOOK AT YOUR DEMEANOR, THE
7 DEMEANOR OF MS. PEREZ, AND THERE'S NO QUESTION IN MY MIND
8 THAT MS. PEREZ IS ACCURATE AND TRUTHFUL AND YOU ARE NOT.
9 I'M DEEPLY TROUBLED BY THIS.

10 THIS ENTIRE THING IS A GAME THAT'S BEING PLAYED
11 WHERE YOU ARE GAMING THE SYSTEM. I DON'T UNDERSTAND THIS
12 CASE.

13 WHY A PERSON WITH YOUR TALENT, WHY A PERSON WITH
14 YOUR ABILITY WOULD BE BOGGING YOURSELF AND YOUR LIFE DOWN
15 HERE DOING THIS, I'VE NEVER UNDERSTOOD.

16 AND, BE THAT AS IT MAY, MY ROLE HERE AS TRIAL
17 JUDGE IS TO SERVE THE PEOPLE. YOU ARE THE PEOPLE. I'M TO
18 DO TASKS THAT ARE BROUGHT BEFORE ME. BUT I HAVE NEVER SEEN
19 SUCH GAMES BEING PLAYED FOR WHATEVER REASON.

20 I MEAN, YOU ARE TRYING TO ENFORCE \$137,000 OF
21 ATTORNEYS' FEES THAT YOU'RE NOT ENTITLED TO.

22 MR. SANAI: HOW DO YOU KNOW I'M NOT ENTITLED TO IT?

23 THE COURT: BECAUSE THERE IS NO WAY ON THE PLANET
24 EARTH OR THIS QUADRANT OF THIS GALAXY --

25 MR. SANAI: UH-HUH.

26 THE COURT: -- WHERE YOU CAN SAY \$138,000 IS A
27 REASONABLE FEE -- EVEN ASSUMING YOU'RE ENTITLED TO IT BY
28 STATUTE, A REASONABLE FEE FOR DOING THIS. YOU TRY ENTIRE

1 CASES FOR \$137,000.

2 THE NOTION THAT TO ENFORCE A JUDGMENT -- HOW
3 MANY HOURS DOES THIS TAKE -- IS GOING TO COST \$137,000,
4 DOESN'T PASS THE STRAIGHT FACE TEST.

5 MR. SANAI: THAT'S NOT ACTUALLY --

6 THE COURT: JUST A MINUTE.

7 MR. SANAI: FAIR ENOUGH.

8 THE COURT: I DON'T CARE HOW SMART A MAN YOU ARE, OR
9 HOW HIGH YOUR BILLABLE RATES ARE. THERE'S NO WAY ON THE
10 PLANET EARTH THAT COULD BE A REASONABLE FEE TO ENFORCE A
11 JUDGMENT.

12 MR. SANAI: MAY I?

13 THE COURT: NO.

14 SECONDLY, I AM FINDING THAT THE JUDGMENT IN THIS
15 CASE WAS THE JUDGMENT WE SIGNED IN COURT THE OTHER DAY.
16 THAT WAS MY CLEAR INTENT.

17 MY CLEAR INTENT WAS TO WRAP THIS UP ONCE AND FOR
18 ALL, BECAUSE WE HAVE THIS PROBLEM -- THESE ONGOING PROBLEMS
19 WITH PEOPLE NOT GETTING SERVED, OR CLAIMING THEY'RE NOT
20 GETTING SERVED, CLAIMING THEY'RE NOT GETTING NOTICE.

21 THIS IS AN ONGOING THEME IN THIS CASE, AND TO
22 CLARIFY THIS THEME, I TOLD EVERYBODY IN COURT THAT NO LONGER
23 WOULD I ACCEPT EX PARTE ORDERS THAT ARE BROUGHT IN.

24 FROM NOW ON IN THIS CASE EVERY ORDER THAT IS
25 MADE IN THIS CASE IS MADE IN OPEN COURT WITH ALL OF THE
26 PARTIES PRESENT.

27 I'M TIRED OF THIS PROBLEM WITH EVERYBODY
28 CLAIMING THEY WEREN'T SERVED. THEY DON'T KNOW WHAT'S