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6 Attorneys for Defendants/Respondents,
SACRAMENTO MUNICIPAL UTILITY DISTRICT
7 and PAUL LAU

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SACRAMENTO

11 ASIAN AMERICAN LIBERATION
NETWORK, a California non-profit
12 public benefit association; KHURSHID
KHOJA, an individual; ALFONSO
13 NGUYEN, an individual,

14 Plaintiffs and Petitioners,

15 vs.

16 SACRAMENTO MUNICIPAL UTILITY
DISTRICT; PAUL LAU, in his office capacity
17 as the Chief Executive Officer of the
Sacramento Municipal Utility District; CITY
18 OF SACRAMENTO; KATHERINE LESTER,
in her official capacity as Chief of Police of
19 the City of Sacramento Police Department,

20 Defendants and Respondents.

Case No. 34-2022-80004019

**DEFENDANTS SACRAMENTO
MUNICIPAL UTILITY DISTRICT and
PAUL LAU's NOTICE OF MOTION TO
STRIKE OR, ALTERNATIVELY, TO
TAX COSTS; MEMORANDUM OF
POINTS AND AUTHORITIES;
DECLARATION OF JEFFREY E.
SCHULTZ**

Date:
Time:
Dept: 21

Action Filed: September 21, 2022
Trial Date: None Set

21 PLEASE TAKE NOTICE that on ____ at ____ a.m./p.m. or as soon thereafter as the matter
22 may be heard, in Department 21 of the above-entitled Court, Defendants/Respondents,
23 SACRAMENTO MUNICIPAL UTILITY DISTRICT and PAUL LAU (collectively "Defendants"
24 and/or "SMUD") will move this Court pursuant to California Rule of Court 3.1700(b)(1) and Code
25 of Civil Procedure Section 1033.5 for an order taxing the following items from Plaintiffs/Petitioners
26 ASIAN AMERICAN LIBERATION NETWORK, KHURSHID KHOJA, and ALFONSO
27 NGUYEN's (collectively "Plaintiffs") Memorandum of Costs served on January 15, 2026:

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- 1. The Memorandum in its entirety, or, in the alternative
- 2. Filing and motion fees, Deposition costs, Service of process costs, Witness fees, Fees for electronic filing or service, and Other.

This Motion is based on this Notice of Motion, the accompanying Memorandum of Points and Authorities, the Declaration of Jeffrey E. Schultz, the Court’s records and files in this action, and such further evidence as may be presented at the hearing of this Motion.

Pursuant to Local Rule 1.06 (A), the court will make a tentative ruling on the merits of this matter by 2:00 p.m., the court day before the hearing. The complete text of the tentative rulings for the department may be downloaded from the Court's public access site. If you do not have online access, you may call the dedicated phone number for the department as referenced in the local telephone directory, between the hours of 2:00 p.m. and 4:00 p.m. on the court day before the hearing and listen to the tentative ruling. If you do not call the court and the opposing party by 4:00 p.m. the court day before the hearing, no hearing will be held.

DATED: February 3, 2026

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: 

 JOHN S. POULOS
 JEFFREY E. SCHULTZ
 Attorneys for Defendants/Respondents,
 SACRAMENTO MUNICIPAL UTILITY
 DISTRICT and PAUL LAU



1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION.**

3 Defendants SACRAMENTO MUNICIPAL UTILITY DISTRICT (“SMUD”) and PAUL
4 LAU (collectively, (“SMUD Respondents”)) respectfully request the Court reduce the costs
5 requested by Petitioners ASIAN AMERICAN LIBERATION NETWORK (“AALN”), ALFONSO
6 NGUYEN, and KHURSHID KHOJA (collectively, “Petitioners”). Petitioners’ suit is a classic
7 example of over-litigation. Although Petitioners only partially prevailed on their expansive suit --
8 on one cause of action against one group of Respondents (“SMUD Respondents”) – Plaintiffs seek
9 to recover costs for depositions of numerous parties unrelated to SMUD, regarding testimony the
10 Court disregarded or theories of liability Plaintiffs completely abandoned, and for filing fees related
11 to the submission unnecessary documents, including a letters “to the Court.” While California allows
12 a prevailing party to recover certain fees and costs after prevailing in a public interest suit, the law
13 is clear that such recovery must be *reasonable*, not a blank check following a fishing expedition
14 which turned up nothing. SMUD Defendants respectfully request the Court reduce the total costs
15 awarded to Petitioners to a reasonable sum, reflecting limited extent of their success.

16 **II. FACTUAL BACKGROUND.**

17 Petitioners filed a joint writ petition and complaint seeking to enjoin SMUD Respondents
18 and City Respondents from effectuating an alleged scheme of electricity usage information sharing
19 as part of efforts by law enforcement to mitigate illegal cannabis grow operations in and around the
20 Sacramento area. Petitioners brought suit (and attempted to justify standing) based on a strained
21 theory that the campaign, in which SMUD responded to law enforcement requests because of
22 statutory obligations to provide such information, purposefully targeted or had a discriminatory
23 impact on Sacramento’s Asian-American community. Over the course of years of discovery and
24 depositions, including turning over thousands of pages and nearly ten years of records, Petitioners
25 abandoned that theory, even modifying their focus from an individualized basis to one aiming to
26 end the provision of zip-code-wide provision based on electricity usage levels above a given
27 threshold. Even after filing exceedingly voluminous compendiums of exhibits with their Petition
28 briefing, Petitioners made no substantive reference to the alleged discriminatory pretense for their



1 suit, and the Court admonished Petitioners for submitting such a large number of irrelevant
2 documents. The Court further found that one Petitioner lacked standing to bring suit. The Court’s
3 Ruling, even after the approximately twenty-minute hearing, in which no witnesses were called or
4 evidence presented, did not reference any submitted deposition transcripts or expert opinions.
5 Ultimately, Petitioners prevailed on one cause of action against SMUD Defendants. Petitioners did
6 not prevail on any cause of action against City Defendants. Petitioners did not prevail on a second
7 cause of action against SMUD Defendants. Petitioners dismissed their companion Complaint
8 against all Respondents. Petitioners subsequently filed the instant Memorandum of Costs, *seeking*
9 *nearly twenty thousand dollars in costs*, the majority of which is attributed to Deposition costs.

10 **III. LEGAL ARGUMENT**

11 **A. Petitioners are not prevailing parties for purposes of cost recovery.**

12 California allows for the recovery of costs by a party who obtains a net monetary recovery
13 as a matter of right. (Cal. Code Civ. Proc. § 1032(a)(4).) While non-monetary relief may afford a
14 Party with the right to recover costs under section 1032, a petitioner is not a prevailing party where
15 they do not recover relief sought. (*See, e.g., Chaparral Greens v. City of Chula Vista* (1996) 50
16 Cal.App.4th 1134.) In such circumstances, cost recovery is discretionary. (*See id.* [Even if costs
17 were discretionary, Court’s award of costs to respondent was not an abuse of discretion].)

18 Here, Petitioners lost one of two causes of action against SMUD Respondents, and even that
19 cause of action was only partially granted. Petitioners lost both against City Respondents. After the
20 Court rejected all but one of the causes action, Petitioners voluntarily dismissed their companion
21 Complaint against all Respondents. They are simply not prevailing parties for cost-recovery
22 purposes. Respondents respectfully request the Court decline to award Petitioners any costs, as it is
23 empowered to do in its discretion.

24 The Court should also decline to award Petitioners any costs because their documentation in
25 support of the subject memorandum appear to all be associated with services rendered on AALN’s
26 behalf. For example, AALN is the only Petitioner referenced in the various invoices attached to the
27 memorandum. Invoices were submitted under billing codes “AALN,” not one of the individual
28 Petitioners. Yet, the Court ruled that AALN did not have standing to proceed with the Petition,
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1 providing thorough reasoning for the same, after Petitioners’ comments regarding “the high
2 likelihood [the Ruling] would be appealed” at the hearing oral argument. Certainly, a party without
3 standing to even proceed with a suit is not a prevailing party. There is no supporting documentation
4 identifying costs incurred by the individual Petitioners.

5 Further, Petitioners do not provide any declaration or explanatory documentation averring
6 why these various costs are necessary or reasonable, explaining the bases for the numerous vague
7 costs (*See, e.g., “Summary: Other”*), or providing any sort of confirmation of the authenticity of
8 any of the documentation. Because the memorandum appears to solely be supported by an unsworn
9 collection of alleged receipts, Petitioners fail to put forth sufficient documentation for the Court to
10 Order SMUD Respondents to pay the same to Petitioners.

11 For these reasons, as well, the Court should decline to award the requested costs, as the
12 information provided to the Court only demonstrates costs incurred by non-prevailing party, AALN.

13 **B. Even if the Court does award costs to Petitioners, it should reduce the costs.**

14 **1. Deposition Costs.**

15 As cited above, the Court denied Petitioners causes of action against the City of Sacramento.
16 The Court partially granted one cause of action Petitioners asserted against SMUD Defendants and
17 denied the other. Petitioners abandoned, nor did the Court rely upon – or cite to – any testimony
18 related to any alleged discrimination against Asian-Americans in the Sacramento area, or any expert
19 opinion. Yet, a line-by-line accounting of Petitioners’ requested costs reveal that most of what
20 Plaintiffs ask for are related to City and expert witness depositions.

21 Of the ten charges related to “Deposition costs” Petitioners identify, only three witnesses are
22 associated with SMUD Respondents – Messrs. Burkhalter, Wolff, and retired employee Robert
23 Duggan. The remaining witnesses are associated with City Respondents, including various law
24 enforcement personnel or analysts, and Petitioners and the City’s expert witnesses. Given Petitioners
25 did not prevail against City Respondents, SMUD Defendants should not have to bear the costs
26 associated with those witnesses’ depositions. And, because the Court’s ruling on the one cause of
27 action pursuant to which the Court did issue a writ did not make any reference to or use of Petitioner
28 or the City’s expert witnesses, SMUD Respondents respectfully request the Court decline to award

1 those costs, as well. Finally, because Petitioners did not use or rely upon, present, or base any
2 argument on the sole video deposition in this matter – of SMUD employee Jason Burkhalter, SMUD
3 Respondents respectfully request the Court decline to award Petitioners that Deposition Cost, as
4 well.

5 Accordingly, in the alternative to declining any costs to AALN, Respondents request the
6 Court reduce the recoverable Deposition Costs to only reflect the Depositions of Messrs. Burkhalter,
7 Wolff, and Duggan, reducing the requested \$17,135.85 to \$6,637.10.

8 Likewise, the only reference to “Witness fees” is a line item for an invoice related to service
9 of process on a deposition subpoena to the County of Sacramento, reflecting the entire \$275.00
10 sought by Petitioners. Because this fee is not associated with SMUD Respondents, SMUD
11 Respondents respectfully request the Court decline to award this line item.

12 **2. Service of process on non-SMUD parties.**

13 For the same reasons as above, Petitioners should also not recover for the requested
14 documentation related to service of process on non-SMUD-related persons and entities. For
15 example, under “Service of process,” Petitioners identify fees associated with Katherine Lester, the
16 City of Sacramento, subpoenas to Elk Grove, Rancho Cordova (x2), and Sacramento County (x2).
17 SMUD Respondents should not be obligated to pay for these fees, which are associated with service
18 on parties against whom Petitioners failed to petition against or for unnecessarily expansive
19 discovery served upon parties unrelated to SMUD. Further, some of the fees are greater than others
20 due to failed service attempts on City representatives. (*See, e.g., “Bad Address”* line on invoice for
21 Katherine Lester’s service.) Accordingly, SMUD Respondents respectfully request the Court
22 reduce the “Service of Process” fees from the \$812.80 to \$100, reflecting the service of process on
23 SMUD Respondents, alone.

24 **3. Overly-voluminous and unnecessary filings.**

25 Finally, there are a series of line items for costs Petitioners associate with “Fees for electronic
26 filing or service” and “Filing and motion fees.” A sizeable number of these items correlate to
27 Petitioners’ voluminous document filings (for which Petitioners were admonished by the Court) or
28 scattershot filings with no statutory basis. For example, there is a “Stipulation and Notice of
170715501.1

1 Lodging” which did not involve SMUD Respondents, and a “Letter to Judge Chang” that amounted
2 to Petitioners complaining to the Court about Respondents, rather than a procedurally authorized
3 filing. Further, there are numerous fees associated with the large amount of documents filed by
4 Petitioners, including “Delivery per court rule of motion to seal records,” “E-filing and courtesy
5 copy delivery of Petitioner’s reply,” “Physical filing of sealed documents,” and “Declaration
6 Supplemental E-filing.” Likewise, Petitioners ask to recover for e-filing fees related to the *dismissal*
7 *of their unadjudicated Complaint against all Respondents*. SMUD Respondents should not be
8 obligated to pay these fees, which are merely the result of over litigation, not reasonably associated
9 with the limited success Petitioners enjoyed against SMUD Respondents. SMUD Respondents
10 respectfully request the Court reduce the “Filing and motion fees,” and “Fees for electronic filing
11 or service of process, in their entirety, from the \$595.00 and \$301.82, respectively.

12 **4.**

13 Finally, Petitioners put forth a request for \$760.00 in “Other” costs. Petitioners fail to provide
14 any explanation of where these costs come from, and like the thousands of unnecessary documents
15 filed with their petition, leave the Court to ascertain from where these costs arise. The answer is
16 unclear. The Court should reduce these vague “Other” costs in their entirety, for lack of support in
17 the documentation provided.

18 **IV. CONCLUSION**

19 Accordingly, SMUD Respondents respectfully request the Court decline to award
20 Petitioners the requested costs in their entirety, or, in the alternative reduce the awarded costs from
21 the exorbitant \$19,880.47 to \$6,637.10

22 DATED: February 3, 2026

LEWIS BRISBOIS BISGAARD & SMITH LLP

23
24 By: 

JOHN S. POULOS

JEFFREY E. SCHULTZ

Attorneys for Defendants/Respondents,
SACRAMENTO MUNICIPAL UTILITY
DISTRICT and PAUL LAU

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I, JEFFREY E. SCHULTZ, declare:

1. I am an attorney duly admitted to practice in all of the Courts of the State of California and am an attorney with the law firm of Lewis Brisbois Bisgaard & Smith LLP, attorneys of record for Defendants/Respondents SACRAMENTO MUNICIPAL UTILITY DISTRICT and PAUL LAU (collectively “Defendants” and/or “SMUD”). I make this Declaration in support of SMUD’s Motion to Tax Plaintiffs’ Memorandum of Costs. The facts set forth herein are of my own personal knowledge, and if sworn I could and would competently testify thereto.

2. A review of Petitioners’ Memorandum of Costs reveals an attempt to recover for fees associated with Respondents against whom Petitioners did not prevail, or persons and entities unaffiliated with SMUD Respondents. For example, Ms. Lester, Ms. Mendoza, Ms. Streich, Mr. Dyson, and Mr. Smith were witnesses and parties associated with law enforcement officers and City Respondents. There are line items for subpoenas to entities not associated with SMUD, including the City of Sacramento, Elk Grove, Rancho Cordova, and the County of Sacramento. There are also deposition fees related to M. Meredith and Stephen Wicker, two expert witnesses designated by City Respondents and Petitioners.

I declare under penalty of perjury pursuant to the laws of the State of California, that the foregoing is true and correct and that this Declaration was executed on February 3, 2026, in Sacramento, California.

By:  _____
JEFFREY E. SCHULTZ

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CALIFORNIA STATE COURT PROOF OF SERVICE
Asian American Liberation Network, et al. v. Sacramento Municipal Utility District, et al.
Sacramento County Superior Court, Case No. 34-2022-80004019

STATE OF CALIFORNIA, COUNTY OF SACRAMENTO

At the time of service, I was over 18 years of age and not a party to this action. My business address is 2020 West El Camino Avenue, Suite 700, Sacramento, CA 95833.

On **February 3, 2026**, I served true copies of the following document(s):

**DEFENDANTS SACRAMENTO MUNICIPAL UTILITY DISTRICT and PAUL LAU's
NOTICE OF MOTION TO STRIKE OR, ALTERNATIVELY, TO TAX COSTS;
MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF JEFFREY E.
SCHULTZ**

I served the documents on the following persons at the following addresses (including fax numbers and e-mail addresses, if applicable):

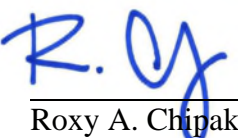
SEE ATTACHED SERVICE LIST

The documents were served by the following means:

(BY E-MAIL OR ELECTRONIC TRANSMISSION) Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent from e-mail address roxy.chipak@lewisbrisbois.com to the persons at the e-mail addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **February 3, 2026**, at Sacramento, California.



Roxy A. Chipak

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SERVICE LIST

Asian American Liberation Network, et al. v. Sacramento Municipal Utility District, et al.
Sacramento County Superior Court, Case No. 34-2022-80004019

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