

BENJAMIN H. SETTLE

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IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

CONFEDERATED TRIBES OF THE CHEHALIS) RESERVATION, et al.,) <p style="text-align: center;">Plaintiffs,</p>)	No. C08 5562 BHS RESPONSE TO PLAINTIFFS’ MOTION FOR COSTS
vs.)	
THURSTON COUNTY BOARD OF) EQUALIZATION, et al.) <p style="text-align: center;">Defendants.</p>)	Note on Motion Docket: January 24, 2014

Defendants oppose Plaintiffs’ Motion for Costs because the listing of costs includes numerous errors, and the amount requested by the Plaintiffs appears to be well in excess of their actual expenditures. Plaintiffs should be required to submit copies of their invoices to verify any sums they are awarded.

Plaintiffs’ Motion for Costs states that “Plaintiffs seek essentially the same costs sought by and awarded to Defendants on July 1, 2010 . . .” Dkt. 220 at 2:1-3. However, Defendants sought and were awarded \$19,494.37 in deposition-related costs in July of 2010. Dkt. 199. Plaintiffs now seek \$28,423.59 to cover “essentially the same” costs. Dkt. 220 at 2:1.

Plaintiffs used Seattle Deposition Reporters for all depositions that they noted. Defendants used Capitol Pacific Reporting for depositions they noted. At the time the transcripts were prepared, the companies charged the following fees:

Seattle Deposition Reporters

\$ 4.00 per page (original)

\$ 2.95 per page (copy)

\$35.00 per e-transcript

Capitol Pacific Reporting

\$ 4.35 per page (original)

\$ 2.55 per page (copy)

\$15.00 per e-transcript

Both companies bill only the party who noted the deposition for the attendance fee. *See* Declaration of Ryan Dangle and Declaration of Sandra Nelson.

Depositions Noted by Plaintiffs

The costs Plaintiffs request for several depositions are higher than the amounts charged by Seattle Deposition Reporters. If the Plaintiffs ordered original transcripts, the cost per page was \$4.00. Dec. of Dangle.

The deposition transcript of Pulsipher, Dennis (V.1) from Seattle Deposition Reporters was 128 pages. Declaration of Linda Olsen, at 2. The cost should be \$512.00, plus the \$35.00 e-transcript fee, for a total of \$547.00. Plaintiffs seek \$768.00 plus \$60.80 for “other costs” for a total of \$828.80, which is \$281.80 too high. Dkt. 221 at 5.

The deposition transcript of Costello, Patricia (V.2) from Seattle Deposition Reporters was 116 pages. Dec. of Olsen at 2. The cost should be \$464.00, plus the \$35.00 e-transcript fee, for a total of \$499.00. Plaintiffs seek \$812.00 for the transcript plus \$58.00 for “other costs” For a total of \$870.00, which is \$371.00 too high. Dkt. 221 at 5.

The deposition transcript of Romero, Sandra from Seattle Deposition Reporters was 51 pages. Dec. of Olsen at 2. The cost should be \$204.00, plus the \$35.00 e-transcript fee, for an actual cost of \$239.00. Plaintiffs seek \$408.00 plus \$48.50 for “other costs” for a total of \$456.50, which is \$217.50 too high. Dkt. 221 at 5.

The deposition transcript of Clark, Scott from Seattle Deposition Reporters was 89 pages. Dec. of Olsen at 2. The cost should be \$356.00, plus the \$35.00 e-transcript fee, for a total of \$391.00.

1 Plaintiffs seek \$712.00, plus \$39.50 for “other costs” for a total of \$751.50, which is \$360.50 too high.
2 Dkt. 221 at 5.

3 The deposition transcript of Olson, Lester (V.2) from Seattle Deposition Reporters was 42
4 pages. Dec. of Olsen at 2. The cost should be \$168.00, plus the \$35.00 e-transcript fee, for a total of
5 \$203.00. Plaintiffs seek \$172.00, plus \$35.00 for “other costs” for a total of \$207.00, which is \$4.00
6 too high. Dkt. 221 at 6.

7 The deposition transcript of Deaton, William (Cary) from Seattle Deposition Reporters was 150
8 pages. Dec. of Olsen at 2. The cost should be \$600.00, plus the \$35.00 e-transcript fee, for a total of
9 \$635.00. Plaintiffs seek \$258.00 for “other costs” , which appears to be \$223.00 too high. Dkt. 221 at
10 6.
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12 The following table summarizes the cost calculation and the Plaintiffs’ requested overcharges
13 for transcripts of depositions Plaintiffs noted:

Deponent	Pages	Cost at \$4.00/Page	E-transcript	Total Cost	Overcharge
Pulsipher, Dennis (V.1)	128	\$512.00	\$35.00	\$547.80	\$281.80
Costello, Patricia (V.2)	116	\$464.00	\$35.00	\$499.00	\$371.00
Romero, Sandra	51	\$204.00	\$35.00	\$239.00	\$217.50
Clark, Scott	89	\$356.00	\$35.00	\$391.00	\$360.50
Olson, Lester (V.2)	42	\$168.00	\$35.00	\$203.00	\$4.00
Deaton, William (Cary)	150	\$600.00	\$35.00	\$635.00	\$223.00

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19 **Depositions Noted by Defendants**

20 The costs Plaintiffs request for several depositions are higher than the amounts charged by
21 Capitol Pacific Reporting.

22 For the deposition transcript of Cushman, Leslie (V.1) from Capitol Pacific Reporting,
23 Plaintiffs seek \$527.25. The transcript for this deposition was 115 pages. Dec. of Olsen at 2.
24 Defendants, not Plaintiffs, paid the higher per page cost for the original transcript and the attendance
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1 fee for this deposition, so the Plaintiffs would have paid only \$2.55 per page for a copy of the
 2 transcript. Dec. of Olsen at 2; Dec. of Nelson. The actual cost should be \$293.25, plus the e-transcript
 3 fee of \$15.00, for a total of \$308.25, not \$527.25 as the Plaintiffs are seeking. In addition, as further
 4 explained below, Plaintiffs did not pay an attendance fee and should not be awarded the additional
 5 \$375.00 they are claiming.

6 Chairman Burnett was deposed in his capacity as Tribal Chairman, as a 30(b)(6) representative
 7 of the Chehalis Tribe, and as a 30(b)(6) representative of CTGW, LLC. The deposition transcript from
 8 Capitol Pacific Reporting for all three depositions combined was 242 pages. Dec. of Olsen at 2. If the
 9 Plaintiffs ordered the original transcript at \$4.35 per page, the transcript should cost \$1052.70, plus the
 10 \$15.00 e-transcript fee for each of the three transcripts, for a total of \$1097.70. Plaintiffs are requesting
 11 transcript fees of \$632.10 and \$803.92, for a total of \$1436.02. Dkt. 221 at 7. The costs sought by
 12 Plaintiffs appear to be \$338.32 too high. In addition, as further explained below, Plaintiffs did not pay
 13 an attendance fee and should not be awarded the additional \$960.00 they are claiming.

14 The following table summarizes the cost calculation and the Plaintiffs' requested overcharges
 15 for the transcripts of depositions Defendants noted:
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Deponent	Pages	Cost	E-transcript	Total Cost	Overcharge
Cushman, Leslie (V.1)	115	\$293.25	\$15.00	\$308.25	\$219.00
Burnett, David Burnett, David 30(b)(6) CTGW Burnett, David 30(b)(6) Tribe	242	\$1052.70	\$45.00	\$1097.70	\$338.32

17 Plaintiffs request costs associated with 17 depositions that were noted by Defendants.
 18 Dkt. 221 at 7. The costs listed by Plaintiffs appear to be identical to, and copied directly from,
 19 Defendants' motion for costs, Dkt. 187 at 3, rather than their invoiced costs. Plaintiffs are asking the
 20 Court to award them costs of attendance fees for 15 of the depositions noted by Defendants, at
 21 \$4,875.00. Dkt. 221 at 7. However, attendance fees are charged only to the party noting the deposition.

1 Dec. of Nelson. Defendants, not Plaintiffs, paid the attendance fees for the depositions Defendants
2 noted, so the \$4,875.00 should be denied.

3 All these erroneous charges amount to \$6,890.12 that should not be awarded to Plaintiffs.
4 Without actual invoices it is unclear whether other costs the Plaintiffs are seeking are correct. The
5 numerous errors in Plaintiffs' listing of costs raise questions as to the accuracy of all the other costs
6 they are claiming. Defendants request that the Court deny Plaintiffs' Motion for Costs, or in the
7 alternative, allow only the costs the Plaintiffs substantiate as actual expenditures by providing invoices.
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9 DATED this 17th day of January, 2014.

10 JON TUNHEIM
11 PROSECUTING ATTORNEY

12 /s/ Jane Futterman
13 /s/ Scott C. Cushing

14 JANE FUTTERMAN, WSBA #24319
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23 Attorneys for Thurston County Defendants

24 I hereby certify that on the 17th day of January, 2014, I electronically filed the foregoing with the Clerk of the
25 Court using the CM/ECF system which will send notification of such filing to the following attorneys for plaintiffs:

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24 /s/ Linda Olsen

25 Linda Olsen, Paralegal to
Attorneys for Thurston County Defendants