

United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ABAXIS, INC.,)	Case No.: 10-CV-2840-LHK
)	
Plaintiff,)	
v.)	ORDER ASSESSING JURY COSTS
)	
CEPHEID,)	
)	
Defendant.)	

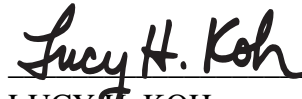
This case was set for trial on Monday, September 24, 2012. Jury selection was set to begin at 1:30 p.m. The previous Wednesday, September 19, 2012, the parties emailed the Courtroom Deputy notice that, “the parties were unable to reach a settlement.” The parties did not indicate that settlement remained possible. If the Court had received notice that settlement remained possible by Sunday, September 23, 2012, at 5:00 p.m., the Court could have instructed the jurors to call to confirm their summons on the morning of Monday, September 24, 2012. However, the Court received no further communications from the parties regarding settlement until Monday, September 24, 2012, at 8:45 a.m., when the parties hand-delivered a letter stating, “The parties anticipate that they will have a final, executed settlement agreement and a stipulation of dismissal on file by 1:30 p.m.” At 9:44 a.m., September 24, 2012, the parties filed a Stipulation of Dismissal with Prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii). *See* Dkt. No. 294. The Court notified the parties that their Stipulation of Dismissal was filed too late to excuse the

1 potential jurors from appearing for jury duty that afternoon. *See* Dkt. No. 295. Accordingly, the
2 Court notified the parties that it would assess jury costs pursuant to Civil Local Rule 40-1. *Id.*

3 **IT IS HEREBY ORDERED** that the jury attendance costs in the amount of \$3,070.87 are
4 assessed against the parties. These costs are broken down as follows: (1) \$1720.00 to pay the \$40
5 per diem attendance fee to 43 of the 44 potential jurors who appeared¹; (2) \$795.87 to reimburse
6 the potential jurors for travel costs at \$0.555 per mile; and (3) \$555.00 to pay for parking validation
7 for the potential jurors. Any party wishing to contest this assessment may do so by filing a
8 declaration showing cause why the costs should not be assessed by **Noon, October 2, 2012**.
9 Otherwise, by that time each party shall pay \$1,535.44, by check payable to the Clerk of Court,
10 United States District Court, 280 South 1st Street, San Jose, CA 95113.

11 **IT IS SO ORDERED.**

12 Dated: September 25, 2012



13 LUCY H. KOH
14 United States District Judge

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¹ One potential juror declined payment.