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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 SELVIN O. CARRANZA,
12 CDCR #T-67780,

13 Plaintiff,

14 vs.

15 EDMUND G. BROWN, Jr., Governor,
16 et al.,

17 Defendants.

Case No.: 3:14-cv-00773-GPC-AGS

**ORDER DENYING WITHOUT
PREJUDICE PLAINTIFF'S EX
PARTE APPLICATION FOR
REIMBURSEMENT OF EXPERT
FEES**

[Dkt. No. 203.]

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19 Plaintiff, Selvin O. Carranza, by and through Morgan, Lewis & Bockius LLP
20 (“Morgan Lewis”), court-appointed pro bono counsel for Mr. Carranza in the above-
21 captioned action, has applied to this Court ex parte for reimbursement of out-of-pocket
22 expert witnesses expenses Morgan Lewis will necessarily incur in the prosecution of this
23 action. Morgan Lewis currently anticipates that expert witness costs in this case will total
24 approximately \$29,775.

25 The Local Civil Rules governing the Pro Bono Fund provides that the “Pro Bono
26 Fund must be used for reimbursement of out-of-pocket expenses, necessarily incurred by
27 court-appointed attorneys representing indigents pro bono in civil cases not covered by
28

1 the Criminal Justice Act, provided that approval for such expenses is first obtained from .
2 . . the district judge assigned the case. . . Application for such funds must be approved by
3 the court.” Local Civ. R. 83.8(a)(2)(a). The Local Rules provide that pro bono counsel
4 obtain prior approval of any request for reimbursement for out-of-pocket expenses
5 necessarily incurred. *Id.* Expert witness fees may be recovered if they are “necessarily
6 incurred” and reasonable. *Roberts v. Hensley*, No. 15cv1871-LAB(BLM), 2019 WL
7 2618124, at *2 (S.D. Cal. June 25, 2019).

8 Here Plaintiff’s pro bono counsel seeks pre-authorization of \$29,775 for out-of-
9 pocket expert witness expenses that will be incurred for two experts. First, Plaintiff seeks
10 reimbursement for expert fees of Dr. July Ho, a licensed and triple board-certified
11 Clinical Neuropsychologist who is a tenured Associate Professor at Pepperdine
12 University and a published author. (Dkt. No. 203-1, Mundell Decl. ¶ 5.) Dr. Ho will
13 administer a psychological evaluation of Plaintiff and provide a written expert report.
14 (*Id.* ¶ 6.) Dr. Ho will also educate the trier of fact about the nature of Plaintiff’s relevant
15 mental health issues, and CDCR policies concerning treatment of inmates with mental
16 health issues. (*Id.*) Her consulting rate is \$375 per hour for non-testifying work, and
17 \$650 per hour for testimony. (*Id.* ¶ 7.) Plaintiff anticipates her fees will total around
18 \$18,375¹ which includes one day of trial attendance and testimony (8 hours), deposition
19 preparation (3 hours), one day of deposition testimony (7 hours), and time spent
20 reviewing the case, evaluating Plaintiff and writing and expert report (20 hours). (*Id.*)

21 Plaintiff has also engaged William Adams, an expert on CDCR policies,
22 procedures and general prison information and has over 25 years of experience working
23 with the CDCR. (*Id.* ¶ 8.) He will provide expert opinion “on performance standards
24 expected of correctional officers, supervisors, managers, and non-peace officer staff
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27 ¹ According to the Court’s calculation based on the number of hours and Dr. Ho’s hourly fee, the
28 approximate fees total \$16,450, not \$18,375.

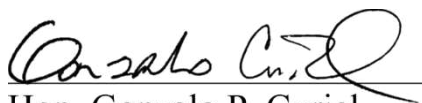
1 members, by reference to CDCR’s rules, policies.” (*Id.* ¶ 9.) His testimony will assist
2 the trier of fact in understanding the standard of conduct required of correctional officers
3 and whether Defendants complied with CDCR policy when interacting with Plaintiff.
4 (*Id.*) Adam’s consulting rate is \$300 per hour. (*Id.* ¶ 10.) Plaintiff expects his fees will
5 total around \$11,400 which includes one day of trial attendance and testimony (8 hours),
6 deposition preparation (3 hours), one day of deposition testimony (7 hours), and time
7 spent reviewing case records, CDCR policies, incident reports, and writing an expert
8 report (20 hours). (*Id.*)

9 Plaintiff seeks pre-approval of reimbursement of up to \$29,775² for the costs
10 associated with retaining the two experts. While the Court finds that these experts are
11 necessary, it has concerns that the amount sought is excessive as this large amount is not
12 typically granted to pro bono counsel and the Pro Bono Fund is a limited resource. For
13 example, Dr. Ho’s fee of \$650 per hour for trial testimony is excessive in light of the fact
14 she typically charges \$375 per hour for non-testifying work. *See Roberts*, 2019 WL
15 2618124, at *2 (reducing hourly rate of dental expert from \$475 per hour to \$250 per
16 hour).

17 Thus, the Court DENIES without prejudice Plaintiff’s ex parte application for pre-
18 approval of reimbursement of expenses in the amount of \$29,775 for out-of-pocket expert
19 witness expenses from the Court’s Pro Bono Fund.

20 IT IS SO ORDERED.

21 Dated: November 20, 2019

22 
23 Hon. Gonzalo P. Curiel
24 United States District Judge
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27 ² According to the Court’s calculation, the total amounts to \$27,850.
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