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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

KABINS FAMILY, LLC., etc., <i>et al.</i> ,	)	
	)	
Plaintiff,	)	2:09-cv-1125-GMN-RJJ
	)	
vs.	)	
	)	
CHAIN CONSORTIUM, etc.,	)	<u>O R D E R</u>
	)	
Defendant,	)	

This matter is before the Court on Defendants Gabriel Martinez, Esq., 99<sup>th</sup> & Indian School, LLC, 99<sup>th</sup> & Indian School Management, LLC, Capri II, LLC, Capri II, LLC and Phoenix 83<sup>rd</sup>, LLC’s Application for Attorney’s Fees and Costs (#268); Application for Attorneys Fees and Cost; Affidavit of Albert D. Massi, Esq. (#269); Defendants Edward Gutzman III; GEIII, LLC Benessere Management, LLC and Cipriani Management, LLC’s Application for Attorney Fees (#270) and Defendants Todd Bergman and T.W.B. Enterprises, Inc.’s Application For Attorneys Fees and Costs (#271 and #272).

The Court has considered the Motions for Attorneys’s Fees (#268, #269, #270, #271 and #272), the Addendum (#273), the Responses (#281, #282, #283, and #284) and the argument and representations of counsel at a hearing on the motions.

A hearing on the Motions for Attorneys’ Fees and Costs (#268, #269, #270, #271 and #272) was held pursuant to Fed. R. Civ. P. 37. Defendants’ Motion to Compel (#247) was previously granted by the Court. *See* Minutes of Proceedings (#266). The Court specifically finds that Plaintiff’s failure to cooperate in the taking of the deposition, including numerous

1 inappropriate objections, was not substantially justified and that no other circumstances make an  
2 award of expenses unjust. Good cause appearing therefore,

3 IT IS HEREBY ORDERED that the reasonable costs, including attorney's fees, incurred  
4 in bring the motion to compel and obtaining a court order are awarded to the defendants as  
5 follows:

- 6 1. [#268] Gabriel Martinez, Esq., 99<sup>th</sup> & Indian School, LLC, 99<sup>th</sup> & Indian School  
7 Management, LLC, Capri I, LLC, Capri II, LLC and Phoenix 83<sup>rd</sup>, LLC's  
8 Application for Attorney's Fees and Costs - 3.25 hours at \$250/hour for a **total of**  
9 **\$812.50.**
- 10 2. [#269] Application for Attorneys Fees and Cost; Affidavit of Albert D. Massi,  
11 Esq. (#269) - **12.4 hours at \$350/hour for a total of \$4,340.00.**
- 12 3. [#270] Defendants Edward Gutzman III; GEIII, LLC Benessere Management,  
13 LLC and Cipriani Management, LLC's Application for Attorney Fees (#270) -  
14 3.4 hours at \$325/hour for a **total of \$1,105.00 + \$2.00 parking.**
- 15 4. [#271] and [#272] Defendants Todd Bergman and T.W.B. Enterprises, Inc.'s  
16 Application For Attorneys Fees and Costs (#271 and #272) - **No award** is made  
17 because counsel had no allowable expenses related to the motion to compel.

18 IT IS FURTHER ORDERED that these awarded expenses are to be paid by the Plaintiff  
19 and Plaintiff's attorneys jointly and severally as tactics employed by the Plaintiff's counsel were  
20 not reasonably justified.

21 IT IS FURTHER ORDERED that payment shall be made on or before April 7, 2011.

22 DATED this 29th day of March, 2011.

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25 ROBERT J. JOHNSTON  
26 United States Magistrate Judge  
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