



Superior Court of California  
County of [REDACTED]

Date: 11/25/2019



Courtroom Staff

Honorable: [REDACTED]

Clerk: [REDACTED]

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**NATURE OF PROCEEDINGS: RULING PLAINTIFFS' MOTION FOR ATTORNEY'S  
FEES, COSTS, AND EXPENSES; HERETOFORE SUBMITTED NOVEMBER 20, 2019**

**RULING:**

Having taken the matter under submission following the hearing on November 20, 2019, and after reconsidering the issues of costs and fees pursuant to Civil Code § 1717, the Court grants Plaintiffs' motion for attorney's fees, costs, and expenses in part.

The Court grants Plaintiffs' request for costs and expenses and awards \$6,629.41. (Code Civ. Proc., §1032 (costs); Civ. Code § 1794(d) (costs and expenses).)

Plaintiffs' request for fees is denied pursuant to *Lafferty v. Wells Fargo Bank, N.A.* (2019) 25 Cal.App.5th 398, which limits their recovery against Defendant [REDACTED] as holder of their sales contract to the amount they paid under the installment contract to Defendant [REDACTED] pursuant to the holder provision of the parties' contract. The Court is unwilling to apply pending Civil Code § 1459.5. It does not take effect until January 1, 2020, and is preempted by the Federal Trade Commission's May 2, 2019 ruling on the issue of whether the rule's limitation applies to attorneys' fees. (84 Fed.Reg. 18711, 18713.) Regarding Plaintiffs' contention that they are entitled to an award of fees pursuant to Civil Code § 1717, *Lafferty* points out that Civil Code § 1717 only applies to actions on contract. (*Lafferty v. Wells Fargo, supra*, 25 Cal.App.4th at 417-418.) Plaintiffs do not allege a cause of action for breach of contract in their First Amended Complaint.

The Court grants Defendant [REDACTED] request for judicial notice of the Federal Trade Commission's "Holder Rule" (16 C.F.R. § 433.2(a)) and the Federal Trade Commission's Trade Regulation Rule Concerning Preservation of Consumers' Claims and Defenses, dated May 2, 2019 (84 Fed.Reg. 18711.)

Defendant will prepare an order consistent with this ruling for the court's signature and pursuant to California Rules of Court, rule 3.1312.

Copy of minutes mailed to all parties as stated on the attached certificate of mailing.

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MINUTES FINALIZED BY: [REDACTED]

ON: NOVEMBER 25, 2019

