

1 On May 8, 2013, Plaintiffs Monica Bruce and Donna Stubbs, on behalf of all
2 others similarly situated, initiated the instant action and alleged that they purchased
3 and received floral arrangements from Defendant Teleflora that were either inferior to
4 the arrangements ordered or delivered after the agreed-upon delivery date. (FAC ¶ 2.)
5 Plaintiffs’ asserted: (1) violations of California Consumer Legal Remedies Act; (2)
6 violations of the California Unfair Competition Law; (3) Breach of Express Contract;
7 and (4) Breach of Express Warranty. (ECF No. 18.)

8 On July 1, 2013, Defendant moved to strike portions of the First Amended
9 Complaint and dismiss Plaintiffs’ California statutory claims. (ECF No. 25.) The
10 Court denied Defendant’s Motion to Strike but dismissed the California statutory
11 claims. (ECF No. 41.)

12 On October 1, 2013, Plaintiffs filed a Motion for Class Certification. (ECF
13 No. 43.) On December 19, 2013, the Court denied the Motion. (ECF No. 92.) On
14 April 29, 2014, Plaintiffs moved to voluntarily dismiss with prejudice because it was
15 not economical to pursue their claims individually. (ECF No. 93.) Plaintiffs also
16 requested the Court bar Defendant from obtaining prevailing-party costs or attorneys’
17 fees. (*Id.*) Plaintiffs argued that Defendant should not be entitled to costs as a
18 condition of dismissal because the case involved limited discovery, the breach of
19 contract and breach of warranty claims had a realistic chance of success on the merits,
20 and their financial resources were limited. (*Id.*) Defendant contended that dismissal
21 did not obviate its right to prevailing-party costs under Federal Rule of Civil
22 Procedure 54(d).² (ECF No. 94.)

23 The Court concluded that “the discretionary factors [did] not justify abandoning
24 the presumption of Teleflora’s right to seek prevailing-party costs,” and the

25 ² The Court considered Rule 54(d) and the factors courts should consider when determining whether
26 prevailing-party costs should be denied: (1) the losing party’s limited financial resources;
27 (2) misconduct on the part of the prevailing party; (3) the importance and complexity of the issues;
28 and (4) the merit of the plaintiff’s case, even if the plaintiff loses. *See Save Our Valley v. Sound
Transit*, 335 F.3d 932, 945 (9th Cir. 2003); *Assn. of Mex.–Am. Educators v. California*, 231 F.3d
572, 592 (9th Cir. 2000).

1 “circumstances of this action [were] not so extraordinary that it would be
2 inappropriate to award Teleflora party costs.” (ECF No. 97.) The Court gave
3 Plaintiffs two weeks to accept or decline the conditional dismissal, and Plaintiffs
4 accepted. (ECF Nos. 97–98.) On July 18, 2014, the Court dismissed the action with
5 prejudice. (ECF No. 101.)

6 On August 4, 2014, Defendant filed a Corrected Notice of Application to the
7 Clerk to Tax Costs seeking \$8,463.62. (ECF No. 104.) Plaintiffs objected and
8 Defendant responded. (ECF Nos. 105–106.) The Clerk allowed \$7,231.12. (ECF
9 No. 107.)

10 Plaintiffs now request the Court review the Clerk’s decision and vacate or
11 substantially reduce the amount imposed. (ECF No. 108.) As Defendant correctly
12 argues, after the Court found that Defendant is entitled to recover its costs:

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14 [A]ll that remained to be determined by the Clerk is what
15 specific costs Teleflora would be awarded, and not whether
16 Teleflora is entitled to costs as a prevailing party based upon
17 the various equitable factors that a Court may consider and
18 indeed, which this Court already considered in its June 16,
19 2014 Order on Plaintiffs’ Motion for Voluntary Dismissal.
20 In balancing the various factors, including one party’s
21 financial ability to absorb costs better than another and
22 whether or not the underlying claim was meritorious, the
23 Court found that Teleflora was nevertheless entitled to its
24 costs. Plaintiffs’ rehashing of these same exact arguments,
25 which the Court has already rejected, is therefore improper
26 and should be disregarded.


27
28 (Opp’n 2.)

1 The Court finds that the instant Motion largely asserts the same arguments the
2 Court evaluated and rejected in its June 16, 2014 Order—that is, the Court should bar
3 Defendant from obtaining prevailing-party costs because ordering Plaintiffs to pay
4 such costs would be unjust and inequitable. Additionally, the Court finds Plaintiffs’
5 objections to Defendants’ specific costs meritless. Plaintiffs’ arguments are
6 conclusory and provide no supporting argument that Defendant’s costs are
7 “impermissible” or “unnecessary.”

8 Therefore, the Court **DENIES** Plaintiffs’ Motion to Vacate or Modify the
9 Clerk’s Taxation of Costs. (ECF No. 108.)

10 **IT IS SO ORDERED.**

11
12 March 17, 2015

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16 **OTIS D. WRIGHT, II**
17 **UNITED STATES DISTRICT JUDGE**
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