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4 **UNITED STATES DISTRICT COURT**
5 **EASTERN DISTRICT OF CALIFORNIA**
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7 CHRISTOPHER SIMMONS,

8 Plaintiff,

9 v.

10 J. AKANNO, et al.,

11 Defendants.

Case No. 1:10-cv-00553-AWI-SAB-PC

ORDER STAYING TAXATION OF COSTS
(ECF No. 99)

ORDER REQUIRING DEFENDANTS TO
FILE RESPONSE TO PLAINTIFF'S
OBJECTIONS TO BILL OF COSTS WITHIN
20 DAYS
(ECF No. 97)

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14 Plaintiff Christopher Simmons, who is appearing with retained counsel, proceeds in this
15 action pursuant to the Americans with Disabilities Act, 42 U.S.C. § 12203(a). This matter was
16 referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

17 **I.**

18 **BACKGROUND**

19 On March 7, 2017, the District Judge issued an order adopting the findings and
20 recommendations and granting summary judgment in favor of Defendants Keldgord, Campas,
21 Covarrubias, Hedgpeth, and Akanno on all claims in this action. (ECF No. 95.) The District
22 Judge directed that judgment be entered in favor of Defendants and the case be closed. A
23 judgment was entered that same day. (ECF No. 96.)

24 On March 13, 2017, Defendants Campas, Covarrubias, Hedgpeth, and Keldgord
25 submitted a bill of costs, seeking costs taxed against Plaintiff in the sum of \$1,771.20. (ECF No.
26 97.) On March 22, 2017, the Clerk of the Court taxed costs against Plaintiff in the sum of
27 \$1,537.45. (ECF No. 99.) Defendant Akanno is represented by separate counsel, and has not
28 submitted any bill of costs.

1 On March 20, 2017, Plaintiff filed objections to the bill of costs submitted by Defendants
2 Campas, Covarrubias, Hedgpeth, and Keldgord. (ECF No. 98.)

3 **II.**

4 **DISCUSSION**

5 Plaintiff objects to the bill of costs on the grounds that defendants who prevail in an
6 Americans with Disabilities Act lawsuit must show that the plaintiff's allegations were frivolous
7 before costs may be taxed against that plaintiff. Plaintiff asserts that his ADA allegations were
8 not found to be frivolous and therefore the application to tax the bill of costs must be denied.

9 The Court finds that the taxation of the bill of costs against Plaintiff must be stayed in
10 this case until Plaintiff's objections are ruled upon. Further, the Court will require briefing on
11 this issue so that Defendants Campas, Covarrubias, Hedgpeth, and Keldgord may be heard.

12 **III.**

13 **CONCLUSION**

14 Accordingly, it is HEREBY ORDERED that:

- 15 1. The taxation of costs against Plaintiff, entered by the Clerk of the Court on March
16 22, 2017 (ECF No. 99), is STAYED;
- 17 2. Defendants Keldgord, Campas, Covarrubias, and Hedgpeth shall file a response to
18 Plaintiff's objections to the bill of costs within 20 days of service of this order; and
- 19 3. Plaintiff may file a reply to the response to Defendants' objections within 7 days
20 of service of Defendants' response. The objections shall be deemed submitted when the time for
21 a reply has expired.

22 IT IS SO ORDERED.

23 Dated: March 23, 2017

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25 UNITED STATES MAGISTRATE JUDGE