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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

SUSAN MAE POLK,) No.: 1:12-cv-01156-DAD-BAM (PC)
)
Plaintiff,)
) ORDER REGARDING MOTION FOR A RULING
) ON BILL OF COSTS DATED MARCH 2, 2018
v.)
) (Doc. No. 111)
MARY LATTIMORE, et al.,)
)
Defendants.)
)
)
)
)

Plaintiff Susan Mae Polk is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. On February 21, 2017, this action was dismissed for Plaintiff's failure to comply with Rules 8(a) and 18(a). (Doc. No. 87.) Judgment was entered that same day. (Doc. No. 88.) On April 19, 2017, Plaintiff appealed. (Doc. No. 92.)

On February 23, 2018, the Ninth Circuit Court of Appeals issued an order affirming in part and vacating in part the judgment, and remanding the action for further proceedings on a single claim. (Doc. No. 99.) The Ninth Circuit's mandate was issued on March 19, 2018. (Doc. No. 101.)

Currently before the Court is Plaintiff's motion for a ruling on the bill of costs she submitted on March 2, 2018. (Doc. No. 111.) Plaintiff states that the costs of filing her appeal to the Ninth Circuit in this case were a hardship, and she seeks for the charge to be removed from her prison trust account and to be taxed against the defendants.

"The controlling rule is Federal Rule of Appellate Procedure 39(a)(4), which provides that where 'a judgment is affirmed in part, reversed in part, modified or vacated, costs are taxed only as the court orders.'" *Exxon Valdez v. Exxon Mobil*, 568 F.3d 1077, 1081 (9th Cir. 2009). Here, the Ninth

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Circuit did not award any costs against any defendant. No defendant has been served in this action, as this case is still in the screening stage. Plaintiff's contention of economic hardship is not sufficient grounds to order costs to be taxed against any defendant here. See 28 U.S.C. § 1915(b)(1) (providing no authority to waive, reduce, or suspend collection of filing fee for a pro se prisoner proceeding *in forma pauperis*).

For these reasons, Plaintiff's motion is HEREBY DENIED.

IT IS SO ORDERED.

Dated: July 31, 2018

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE