

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ADAM PHILLIPPI,

Plaintiff,

Case No. 08-cv-02445-JAM-GGH

v.

ORDER AWARDING COSTS

STRYKER CORPORATION, a Michigan
corporation; STRYKER SALES
CORPORATION, a Michigan
corporation; et al.

Defendants.

_____ /

This matter comes before the Court on Plaintiff Adam
Phillippi's ("Plaintiff's") Objections (Doc. 102) to Defendants
Stryker Corporation and Stryker Sales Corporation
("Defendants'") Amended Bill of Costs. (Doc. 101). Plaintiff,
the losing party, asks the court to deny an award of costs to
Defendants, the prevailing party at summary judgment in this
personal injury products liability suit, due to the disparity in
income between Plaintiff and Defendants. At oral argument,
Defendants' opposed Plaintiff's objections and sought an award

1 of \$18,206.95 in costs, as specified in the Amended Bill of
2 Costs. For the reasons set forth below, the Court awards costs
3 to Defendants.

4
5 Costs are awarded pursuant to Federal Rule of Civil
6 Procedure 54, which states that, "Unless a federal statute,
7 these rules, or a court order provides otherwise, costs—other
8 than attorney's fees—should be allowed to the prevailing party."
9 Fed. R. Civ. P. 54(d)(1). By its terms, the rule creates a
10 presumption in favor of awarding costs to a prevailing party,
11 but vests in the district court discretion to refuse to award
12 costs. Association of Mexican-American Educators v. State of
13 California, 231 F. 3d 527, 591 (9th Cir. 2000). A district court
14 must specify reasons for its refusal to tax costs to the losing
15 party. Id.

16
17
18 Plaintiff cites several cases in which courts have denied
19 cost awards, after considering factors such as the losing
20 party's limited financial resources, (see National Org. for
21 Women v. Bank of Cal., 680 F.2d 1291, 1294 (9th Cir. 1982),
22 indigency (see Stanley v. University of Southern California, 178
23 F. 3d 1069, 1079 (9th Cir. 1999), and the economic disparity
24 between the parties (see Assoc. of Mexican-American Educators,
25 231 F. 3d at 591.) However, all of the cases cited by Plaintiff
26 are readily distinguishable from the case at hand. All are civil
27 rights cases, in which the importance of the rights at issue was
28

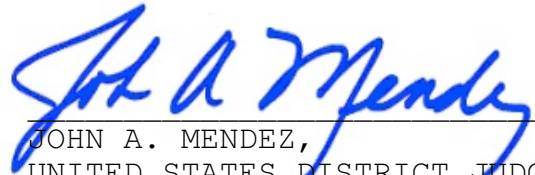
1 a factor in denying costs. No such rights were at issue in the
2 present case. This was simply one Plaintiff seeking monetary
3 damages for an injury he alleged was caused by Defendants. There
4 are no unique or extraordinary circumstances which justify the
5 Court exercising its discretion to deny costs to Defendants in
6 this personal injury products liability case. Accordingly,
7 Plaintiff's objections are overruled.
8

9
10
11 ORDER

12 For the reasons set forth above, Defendants are awarded
13 \$18,206.95 in costs. Execution of this award is stayed until
14 final resolution of the pending appeal before the Ninth Circuit
15 Court of Appeals.
16

17
18 IT IS SO ORDERED.

19
20 Dated: September 20, 2010

21 
22 _____
23 JOHN A. MENDEZ,
24 UNITED STATES DISTRICT JUDGE
25
26
27
28