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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 ROBERT DODSON,

No. 2:09-cv-01646-MCE-KJN

12 Plaintiff,

13 v.

ORDER DENYING COSTS

14 SAC CENTRAL, LLC; CHEVY'S
15 RESTAURANTS, LLC dba CHEVY'S
16 FRESH MEX RESTAURANT #2011, et
al.,

17 Defendants.
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20 Plaintiff instituted this action on June 15, 2009, seeking
21 injunctive relief, declaratory relief and damages on account of
22 alleged access barriers in contravention of the Americans with
23 Disabilities Act, 42 U.S.C. § 12101, et seq ("ADA") and related
24 California statutes. On August 18, 2010, pursuant to the
25 parties' Stipulation of Dismissal, the matter was dismissed with
26 prejudice. The case was closed. Defendant Chevy's Resaurants,
27 LLC dba Chevy's Fresh Mex Restuarant ("Chevy's) subsequently
28 filed its Bill of Costs in the sum of \$908.15.

1 Plaintiff has objected to those claimed costs on grounds that his
2 lawsuit has not been demonstrated to be "frivolous, unreasonable
3 or without foundation", as it must in order to justify an award
4 of costs to a prevailing defendant under the ADA. Brown v. Lucky
5 Stores, Inc., 246 F.3d 1182, 1190 (9th Cir. 2001).

6 Given the parties' stipulation to dismissal and the lack of
7 any findings in this matter, the Court agrees that the requisite
8 showing to justify an award of costs in Defendant Chevy's favor
9 has not been made. Chevy's Bill of Costs (ECF No. 29) is
10 accordingly DENIED.

11 IT IS SO ORDERED.

12 Dated: February 18, 2011

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15 MORRISON C. ENGLAND, JR.
16 UNITED STATES DISTRICT JUDGE
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