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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ELIZABETH McCLELLAND,
Plaintiff,

NO. CIV. S-11-1224 LKK/EFB PS

v.

O R D E R

THE PERMANENTE MEDICAL
GROUP, INC.,
Defendant.

_____/
The court is in receipt of Defendant's submitted Bill of
Costs, totaling \$2,718.21. Def's Bill of Costs, ECF No. 37.

Plaintiff Elizabeth McClelland, a pro se litigant, brought
this action alleging that she was terminated on the basis of her
disability in violation of state and federal law. Upon
adjudication of Defendant's motion for summary judgment, this court
entered judgment for Defendant. See Findings & Recommendations,
ECF No. 31; Order, ECF No. 35.

Federal Rule of Civil Procedure 54(d) governs the taxation of

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1 costs to the prevailing party in a civil matter.¹ Pursuant to
2 Federal Rule of Civil Procedure 54(d)(1), unless a court order
3 provides otherwise, costs (other than attorney's fees) "should be
4 allowed to the prevailing party." This rule creates a presumption
5 that costs will be taxed against the losing party. Ass'n of
6 Mexican-American Educators v. California, 231 F.3d 572, 591-93 (9th
7 Cir. 2000) (en banc). However, if the losing party has
8 demonstrated why costs should not be awarded, the rule "vests in
9 the district court discretion to refuse to award costs." Id., at
10 591; Save Our Valley v. Sound Transit, 335 F.3d 932, 945 (9th Cir.
11 2003) ("the losing party must show why costs should not be
12 awarded"). If the court declines to award costs, it must state its
13 reasons, giving the reviewing court an opportunity to determine if
14 that discretion was abused. Save Our Valley, 335 F.3d at 945.

15 In considering whether costs should be denied, this court
16 considers: the losing party's limited financial resources; the
17 chilling effect of imposing such high costs on future civil rights
18 litigants; whether the issues in the case are close and difficult;
19 and whether Plaintiff's case, although unsuccessful, had some
20 merit. Ass'n of Mexican-American Educators, 231 F.3d at 592-93.


21 To evaluate the efficacy of awarding Defendant costs in this
22 matter, Plaintiff SHALL file a statement with the court, within
23 twenty-one (21) days of the issuance of this order, attesting to
24 the current state of her financial resources.

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26 ¹In the Eastern District of California, this rule is implemented by Local Rule 292. E.D. Cal. R. 292 (2013).

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IT IS SO ORDERED.

DATED: July 18, 2013.


LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT