

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF CALIFORNIA

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4 GINA MCKEEN-CHAPLIN,
5 individually, on behalf of
6 others similarly situated,
and on behalf of the general
public,

7 Plaintiffs,

8 v.

9 PROVIDENT SAVINGS BANK, FSB,

10 Defendant.

No. 2:12-cv-03035-GEB-AC

ORDER

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12 On July 19, 2017, Plaintiffs filed a motion to vacate
13 Defendant's costs taxed against Plaintiffs in light of the Ninth
14 Circuit's ruling in Plaintiffs' favor. ECF No. 111. The Ninth
15 Circuit's mandate concerning the referenced reversal issued on
16 July 27, 2017. ECF No. 113. In accordance with the Ninth
17 Circuit's opinion and mandate, the district court filed an "Order
18 Concerning Judgments" on July 31, 2017, vacating a previous
19 judgment entered in favor of Defendant and entering summary
20 judgment in favor of Plaintiffs. ECF No. 114. Since judgment in
21 favor of defendant has been reversed, costs previously awarded to
22 the Defendant as the prevailing party are automatically vacated.
23 See In re Smith, 876 F.2d 524, 527 (6th Cir. 1989) ("[W]hen a
24 judgment is reversed on appeal, any taxation of costs is also
25 automatically vacated."); Furman v. Cirrito, 782 F.2d 353, 355
26 (2d Cir. 1986) ("When a district court judgment is reversed . . .
27 on appeal, any costs awarded to the previously prevailing party
28 are automatically vacated."); 10 Alan Wright et al., Federal

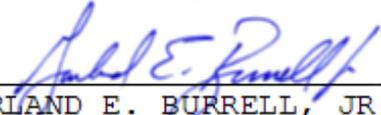
1 Practice and Procedure § 2668, Westlaw (database updated Apr.
2 2017) ("When a judgment is reversed or substantially modified on
3 appeal, the taxation of costs automatically is vacated.").
4 Therefore, Plaintiffs' July 19, 2017 motion to vacate Defendant's
5 costs taxed against Plaintiffs is DENIED as moot.

6 Dated: August 1, 2017

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GARLAND E. BURRELL, JR.
Senior United States District Judge

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