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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JEAN LOGAN,

Plaintiff,

v.

USA WASTE OF CALIFORNIA, INC.
a Delaware corporation; BARRY
SKOLNICK, an individual; MARK
SCHWARTZ, an individual,

Defendants.

No. 2:17-cv-01154-JAM-CKD

ORDER SUSTAINING AWARD OF COSTS

Plaintiff Jean Logan sued her former employer USA Waste of California, Inc. and former supervisor Barry Skolnick (together, "Defendants") for wrongful termination and age and gender harassment and discrimination. This Court granted Defendants' Motion for Summary Judgment and taxed costs against Plaintiff. See ECF Nos. 47, 49, 52. Plaintiff now moves this Court to review and deny the award of costs. Mot., ECF No. 53.

For the reasons set forth below, this Court DENIES Plaintiff's motion and sustains the award of costs.¹

¹ This motion was determined to be suitable for decision without oral argument. E.D. Cal. L.R. 230(g). The hearing was scheduled for February 19, 2019.

1 I. FACTUAL ALLEGATIONS AND PROCEDURAL BACKGROUND

2 On November 20, 2018, following a hearing, this Court
3 granted Defendants' Motion for Summary Judgment, finding as a
4 matter of law Plaintiff could not sustain her claims of gender or
5 age harassment or of failure to prevent harassment, and that she
6 had conceded all other asserted claims. ECF Nos. 47, 49. On
7 December 4, 2018, pursuant to Federal Rule of Civil Procedure
8 54(d)(1), 28 U.S.C. § 1920, and Local Rule 292, Defendants filed
9 their Bill of Costs requesting the clerk to tax costs in the
10 amount of \$6,735.41 as verified by counsel and supported by an
11 Itemized Statement of Costs. ECF Nos. Doc. 50, 51. Plaintiff
12 did not submit objections to the Bill of Costs within seven days,
13 and on December 12, 2018, the clerk taxed costs against Plaintiff
14 in the amount of \$6,735.41. ECF No. 52.

15 On December 19, 2018, Plaintiff moved this Court to review
16 the taxing of costs pursuant to Local Rule 292(e), arguing the
17 gross disparity in financial resources between Plaintiff and
18 Defendants makes the imposition of costs inequitable. Mot., ECF
19 No. 53. Defendants oppose the motion. Opp'n, ECF No. 57.

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21 II. OPINION

22 Federal Rule of Civil Procedure 54(d)(1) provides, in
23 pertinent part: "Unless a federal statute, these rules, or a
24 court order provides otherwise, costs—other than attorney's fees—
25 should be allowed to the prevailing party." Fed. R. Civ. P.
26 54(d)(1). This rule creates a presumption that costs will be
27 taxed against the losing party, but "vests in the district court
28 discretion to refuse to award costs" if the losing party shows

1 why costs should not be awarded. Ass'n of Mexican-Am. Educators
2 v. State of California, 231 F.3d 572, 591-92 (9th Cir. 2000)
3 (en banc) ("AMAE"). If the court declines to award costs, it
4 must "specify reasons" for denying costs. AMAE, 231 F.3d at 591-
5 92 (citing Subscription Television, Inc. v. S. California Theater
6 Owners Ass'n, 576 F.2d 230, 234 (9th Cir. 1978)). A losing
7 party's "limited financial resources" is a valid reason for
8 declining to award costs to a prevailing party. Id. at 592.

9 Plaintiff argues that the award of costs here is inequitable
10 because Logan is retired, has no present source of income beyond
11 her retirement savings, and her financial resources are very
12 limited compared to those of the prevailing parties. Mot. at 3.
13 Plaintiff did not submit an affidavit or other evidence
14 demonstrating an inability to pay the costs taxed. Defendants,
15 however, have provided ample support from the record suggesting
16 Plaintiff has the financial resources to pay the \$6,735.41 in
17 costs. Opp'n at 3-4.

18 The Court finds that an award of costs is not inequitable.
19 Moreover, Plaintiff's reliance on AMAE, in which the Ninth
20 Circuit upheld the denial of costs where the losing party had
21 limited financial resources, is misplaced. In AMAE, unlike here,
22 the record demonstrated that the losing party's resources were
23 limited and the costs taxed were extraordinarily high. AMAE, 231
24 F.3d at 593. The Ninth Circuit also emphasized that, rather than
25 being an "ordinary" case in which "costs are to be awarded as a
26 matter of course," AMAE was an "extraordinarily important" case
27 presenting "issues of the gravest public importance" with the
28 potential to affect "tens of thousands of Californians and the

1 state's public school system as a whole." Id. While every case
2 is important, particularly to the litigants, this case is not the
3 type of "extraordinary" case described in AMAE.

4 Thus, after carefully reviewing and considering Defendants'
5 Bill of Costs, Plaintiff's Motion, and Defendant's Opposition,
6 this Court finds that the taxation of costs against Plaintiff in
7 the amount of \$6,735.41 is reasonable.

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III. ORDER

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For the reasons set forth above, this Court DENIES
Plaintiff's motion (ECF No. 53) and sustains the award of costs
(ECF No. 52).

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IT IS SO ORDERED.

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Dated: February 19, 2019

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JOHN A. MENDEZ,
UNITED STATES DISTRICT JUDGE

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