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

HARRY WHITLOCK, *et al.*,

No. C 08-2742 SI

Plaintiffs,

**ORDER SUSTAINING PLAINTIFFS'
OBJECTION TO DEFENDANTS' BILL
OF COSTS RE: DANIELLE SMITH AND
JO ANN WAKELAND**

v.

PEPSI AMERICAS, *et al.*,

Defendants.

In an order filed July 13, 2011, the Court granted defendants' motion for summary judgment on the claims alleged by plaintiffs Danielle Smith and Jo Ann Wakeland. Pursuant to 28 U.S.C. § 1920 and Civil Local Rule 54-1, defendants filed bills of costs seeking costs in the amount of \$5,829.35 against Smith and \$7,418.80 against Wakeland. Plaintiffs have objected to the bills of costs on the ground that they are unable to pay the cost bills, and because of the significant financial disparity between the parties. Ms. Wakeland has filed a declaration stating that her only source of income is \$800 per month in Social Security benefits, and plaintiffs' counsel has filed a declaration stating that Ms. Smith is a Medi-Cal recipient and that she has four children.

The taxation of costs lies within the trial court's discretion. *In re Media Vision Tech. Secs. Litig.*, 913 F. Supp. 1362, 1366 (N.D. Cal. 1996). District courts may consider a variety of factors in determining whether to exercise their discretion to deny costs to the prevailing party. These factors include great economic disparity between the parties, and the losing party's limited financial resources, *Assoc. of Mexican-American Educators v. Cal.*, 231 F.3d 572, 593 (9th Cir. 2000), both of which are present here. Based upon the record in this case, the Court finds it appropriate to exercise its discretion and sustain plaintiffs' objections to the bills of costs.

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CONCLUSION

For the foregoing reasons, the Court SUSTAINS plaintiffs' objections to the bills of costs and DENIES defendants bills of costs.

IT IS SO ORDERED.

Dated: October 26, 2011



SUSAN ILLSTON
United States District Judge