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

JOANNE WARWICK,

Plaintiff,

v.

UNIVERSITY OF THE PACIFIC; CALIFORNIA  
DEPARTMENT OF CORRECTIONS AND  
REHABILITATION; PATRICIA MILLER;  
DAVID ROMERO; DOES TWO THROUGH  
TWENTY-FIVE, inclusive,

Defendants.

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No. C 08-03904 CW

ORDER DENYING  
PLAINTIFF'S  
MOTION TO OPPOSE  
COSTS  
(Docket No. 191)

Plaintiff has filed a motion opposing costs taxed on her by the Clerk of the Court following entry of judgment in the action. Docket No. 191. Defendants University of the Pacific (UOP) and California Department of Corrections and Rehabilitation (CDCR) oppose Plaintiff's motion. Having considered all of the parties' submissions, the Court denies Plaintiff's motion.

BACKGROUND

Plaintiff served as an attorney under an independent contract with the California Parole Advocacy Program (CalPap). In 2005, CalPap terminated her contract. Subsequently, Plaintiff sued the UOP, the CDCR, and numerous individuals. Plaintiff asserted the

1 following claims: (1) Violation of 42 U.S.C. § 1983; (2) Negligent  
2 Supervision; (3) Breach of Contract; (4) Intentional Interference  
3 with Prospective Economic Advantage; (5) Intentional Interference  
4 with Contractual Relations; (6) Negligence; and (7) Declaratory  
5 Relief.

6 On July 6, 2010, the Court granted summary judgment and  
7 awarded costs in Defendants' favor. Docket No. 173. On August 11,  
8 2010, the Clerk taxed costs in the amount of \$7,435.10 for UOP, and  
9 \$11,589.65 for CDCR. On August 18, 2010, Plaintiff filed a motion  
10 opposing the costs. Docket No. 191. Defendant CDCR has indicated  
11 that it is amenable to staggered payments. Opp. Mot. at 5.

12 LEGAL STANDARD

13 Rule 54(d) creates a presumption for awarding costs to  
14 prevailing parties; the losing party must show why costs should not  
15 be awarded. Save Our Valley v. Sound Transit, 335 F.3d 932, 944-  
16 945 (2003). The Ninth Circuit requires the Court to consider the  
17 plaintiff's limited financial resources, and the chilling effect on  
18 future civil rights litigants of imposing high costs, before  
19 rejecting a losing civil rights plaintiff's motion to deny costs.  
20 Stanley v. University of Southern California, 178 F.3d 1069, 1079  
21 (9th Cir. 1999). "Although a district court must 'specify reasons'  
22 for its refusal to tax costs to the losing party . . . [the Ninth  
23 Circuit has] never held that a district court must specify reasons  
24 for its decision to abide the presumption and tax costs to the  
25 losing party." Save Our Valley, 335 F.3d at 945.

DISCUSSION

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2 Plaintiff has failed to make a sufficient showing to justify  
3 departure from the presumption awarding costs to prevailing  
4 parties. Plaintiff's submissions do not adequately support her  
5 contention that she lacks the ability to pay costs over time.  
6 Rather, Plaintiff is an attorney currently licensed to practice in  
7 California. She has also passed the Michigan and Illinois state  
8 bar exams. Plaintiff has indicated that she has employment  
9 contacts with at least one elected official who apparently invited  
10 her to work for him, a legal aid organization, and a restaurant.  
11 Plaintiff continues to pursue her case, taking on expenses to file  
12 her appeal and request transcripts. The record demonstrates that  
13 Plaintiff has resources at her disposal that set her apart from  
14 other low-income litigants who seek to be excused from costs.

15 Furthermore, Plaintiff's case did not raise civil rights  
16 issues of sufficient novelty, weight and merit that costs should be  
17 excused. The pressing legal issues that Plaintiff identifies,  
18 namely the due process rights of parolees, were not the paramount  
19 concerns in the legal claims she plead against Defendants.

20 Plaintiff's case is different from cases where courts have denied  
21 the imposition of costs on unsuccessful plaintiffs. See e.g.,  
22 National Org. For Women v. Bank of Cal., 680 F.2d 1291, 1294 (9th  
23 Cir. 1982) (affirming denial of costs to defendants where  
24 plaintiffs had limited resources and lawsuit alleged wide-scale  
25 racial discrimination); Assoc. Of Mexican-American Educators v.  
26 California, 231 F.3d 572, 593 (9th Cir. 2000) (affirming denial of  
27 \$216,443.67 in costs to prevailing defendants where the plaintiffs  
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1 pursued a class action challenging teacher examination). The Court  
2 is not persuaded that the award of costs in this case will chill  
3 future civil rights litigants.

4 CONCLUSION

5 Because Plaintiff has failed to make a sufficient showing to  
6 overcome the presumption awarding costs to the prevailing  
7 Defendants, the Court DENIES Plaintiff's motion.

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10 Dated: 12/17/2010



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CLAUDIA WILKEN  
United States District Judge