

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3
4 **O. MATTHEW THOMAS,**
5 Plaintiff,

6 v.

7 **SAN FRANCISCO TRAVEL ASSOCIATION,**
8 Defendant.

Case No. 14-cv-03043-YGR

**ORDER DENYING MOTION FOR
ATTORNEY'S FEES AND COSTS**

Re: Dkt. No. 55

9 This case arises out of a Section 1981 claim brought by plaintiff O. Matthew Thomas
10 against defendant San Francisco Travel Association based on allegations that defendant refused to
11 enter into a contractual relationship with plaintiff because of race-based discrimination. The Court
12 granted summary judgment in favor of defendant, thereby dismissing plaintiff's claims. (Dkt. No
13 51.) Before the Court now is defendant's motion for attorney's fees and costs. (Dkt. No. 55.)
14 Plaintiff filed a response (Dkt. No. 62) and a request for a continuance to find new counsel to
15 defend against the motion (Dkt. No. 65). Defendant replied. (Dkt. No. 64.) Having carefully
16 considered the papers submitted and the pleadings, and for the reasons set out more fully below,
17 the Court **DENIES** defendant's motion for attorney's fees and costs.¹

18 Under Section 1988, in an action or proceeding under Section 1981, a court, "in its
19 discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee
20 as part of the costs." 42 U.S.C. § 1988. Because "Congress wanted to encourage individuals to
21 seek relief for violations of their civil rights, [Section] 1988 operates asymmetrically." *Braunstein*
22 *v. Az. Dep't of Transp.*, 683 F.3d 1177, 1187 (9th Cir. 2012). District courts may award prevailing
23 defendants only in "exceptional circumstances" where the court "finds that the plaintiff's claims
24 are 'frivolous, unreasonable, or groundless,'" whereas prevailing plaintiffs "may receive
25 attorney's fees as a matter of course." *Id.*²

26
27 ¹ The Court adopts the Background section in its Order Denying Motion for Leave to
Amend; Granting Motion for Summary Judgment. (Dkt. No. 51.)

28 ² Frivolous in the Ninth Circuit, means that the "result is obvious" or the plaintiff's

