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28UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

J.M., et al.,

Plaintiffs,

v.

OAKLAND UNIFIED SCHOOL
DISTRICT,

Defendant.

Case No. [17-cv-04986-HSG](#)**ORDER DENYING MOTION FOR
ATTORNEYS' FEES**

Re: Dkt. No. 53

Pending before the Court is Defendant Oakland Unified School District's motion for attorneys' fees and costs. Dkt. No. 53. The Court finds this matter appropriate for disposition without oral argument and the matter is deemed submitted. See Civil L.R. 7-1(b). For the reasons detailed below, the Court **DENIES** the motion.

I. BACKGROUND

The parties are familiar with the facts of this case, so the Court only briefly addresses them here. The Court also fully incorporates the factual background from its prior order granting summary judgment. See Dkt. No. 51 at 1–7.

On August 28, 2017, Plaintiff J.M., a minor, by and through her parent Marla McDonald, sued for attorneys' fees under the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. § 1415(i)(3). See Dkt. No. 1. Plaintiff claimed that she was the "prevailing party" in the underlying administrative proceedings, and thus entitled to attorneys' fees, because the administrative law judge ("ALJ") ordered the District to (1) provide J.M. with certain educational records that the District had withheld over J.M.'s repeated requests; and (2) identify a different interim alternative education setting ("IAES") for J.M. that met the criteria that J.M.'s expert witness, at least in part, had developed. *Id.* at ¶¶ 10–16; see also Dkt. No. 1-1, Ex. A; Dkt. No. 1-

1 2. Ex. B.

2 The District moved for summary judgment, see Dkt. No. 37, and on December 13, 2018,
3 the Court granted the District’s motion, Dkt. No. 51. In doing so, the Court held that the relief
4 Plaintiff obtained was “technical, de minimis, or ephemeral,” and that Plaintiff was therefore not
5 entitled to attorneys’ fees as a prevailing party under the IDEA. *Id.* at 11–14. The Court reasoned
6 that obtaining the additional educational records was “not a benefit J.M. sought in bringing suit
7 but merely a tool to help her achieve victory.” *Id.* at 12. The Court additionally found that
8 Plaintiff’s argument that her expert “set forth the placement criteria” for the IAES placement was
9 “simply not borne out by the record”: Ms. McDonald ultimately objected to the criteria
10 themselves, and the ALJ ultimately rejected Plaintiff’s recommended IAES in favor of the
11 District’s recommendation. *Id.* at 12–13. The Court also noted that even if Plaintiff were a
12 prevailing party, it would exercise its discretion not to award attorneys’ fees “based on the totality
13 of the record” in this case. *Id.* at 14.

14 Following the order granting the motion for summary judgment, the District filed the
15 instant motion for attorneys’ fees, seeking fees under § 1415 of the IDEA, or in the alternative, as
16 sanctions pursuant to Federal Rule of Civil Procedure 11. See Dkt. No. 53. Plaintiff, in turn,
17 appealed the Court’s order granting summary judgment to the Ninth Circuit. See Dkt. No. 56
18 (Case No. 19-16075). The Court held the District’s motion for attorneys’ fees in abeyance
19 pending Plaintiff’s appeal. See Dkt. No. 61. The Ninth Circuit affirmed the Court’s order on
20 February 21, 2020, and the mandate issued on March 16, 2020. See Dkt. Nos. 63, 64. The Court
21 therefore now considers the District’s motion for attorneys’ fees.

22 **II. LEGAL STANDARD**

23 **A. IDEA**

24 “Section 1415 of the IDEA allows prevailing defendants in IDEA cases to recover fees
25 from the attorney of a parent and from a parent in certain rare circumstances.” *C.W. v. Capistrano*
26 *Unified Sch. Dist.*, 784 F.3d 1237, 1244 (9th Cir. 2015). “A prevailing school district may recover
27 attorney’s fees against the parent’s attorney where the complaint is ‘frivolous, unreasonable, or
28 without foundation’ (the ‘frivolous prong’)” or “‘if the parent’s complaint or subsequent cause of

1 action was presented for any improper purpose’ (the ‘improper purpose prong’).” Id. (quoting 20
2 U.S.C. § 1415(i)(3)(B)(i)(II)–(III)). Improper purposes include filings intended “to harass, to
3 cause unnecessary delay, or to needlessly increase the cost of litigation.” 20 U.S.C.
4 § 1415(i)(3)(B)(i)(III).

5 **B. Rule 11**

6 Federal Rule of Civil Procedure 11 imposes upon attorneys a duty to certify that they have
7 read any pleadings or motions they file with the court and that such pleadings and motions are
8 well-grounded in fact, have a colorable basis in law, and are not filed for an improper purpose.
9 See Fed. R. Civ. P. 11(b). Rule 11 authorizes sanctions for its violation and serves to “reduce
10 frivolous claims, defenses or motions and to deter costly meritless maneuvers, . . . [thereby]
11 avoid[ing] delay and unnecessary expense in litigation.” *Christian v. Mattel, Inc.*, 286 F.3d 1118,
12 1127 (9th Cir. 2002) (alterations in original). Sanctions under Rule 11 may include an award of
13 attorneys’ fees. See Fed. R. Civ. P. 11(c)(4). Nevertheless, Rule 11 sanctions should be reserved
14 for the “rare and exceptional case where the action is clearly frivolous, legally unreasonable or
15 without legal foundation, or brought for an improper purpose.” *Operating Engineers Pension Tr.*
16 *v. A-C Co.*, 859 F.2d 1336, 1344 (9th Cir. 1988).

17 **III. DISCUSSION**

18 In the present motion, the District seeks \$29,987.26 in attorneys’ fees incurred in litigating
19 Plaintiff’s motion for attorneys’ fees. See Dkt. No. 53. The District seeks these fees directly from
20 Plaintiff’s attorney, Nicole Hodge Amey. Id. The District contends that the underlying motion for
21 attorneys’ fees that Ms. Amey filed was both frivolous and brought for an improper purpose. See
22 id. at 7–9.

23 **A. Frivolousness**

24 A prevailing defendant is entitled to attorneys’ fees under the IDEA only if plaintiff’s
25 “claim was frivolous, unreasonable, or groundless, or . . . the plaintiff continued to litigate after it
26 clearly became so.” *C.W.*, 784 F.3d at 1244 (quoting *Christiansburg Garment Co. v. Equal*
27 *Employment Opportunity Comm’n*, 434 U.S. 412, 422 (1978)). “[A] case may be deemed
28 frivolous only when the result is obvious or the . . . arguments of error are wholly without merit.”

1 Id. (quotation omitted). The Ninth Circuit, echoing the Supreme Court, has cautioned against
2 “the understandable temptation to engage in post hoc reasoning by concluding that, because a
3 plaintiff did not ultimately prevail, his action must have been unreasonable or without
4 foundation.” Id. (quoting *Christiansburg*, 434 U.S. at 421–22). “[A] defendant bears the burden
5 of establishing that the fees for which it is asking are in fact incurred solely by virtue of the need
6 to defend against those frivolous claims.” Id. at 1250.

7 Here, the District contends that “Plaintiff’s claim for ‘prevailing party’ attorneys’ fees was
8 not supported by any precedent or supported by legal argument.” Dkt. No. 53 at 7. The District
9 points to the dearth of authority in Plaintiff’s briefing, and the fact that, at bottom, the ALJ
10 selected the District’s IAES over Plaintiff’s. See, e.g., *id.*; Dkt. No. 59 at 2–5. In response,
11 Plaintiff urges that she had a reasonable basis for arguing that she was the prevailing party. She
12 notes that the ALJ specifically indicated that Plaintiff prevailed as to whether the District’s initial
13 IAES placement was inappropriate and unsafe for J.M. See Dkt. No. 55 at 2–3, 5. The ALJ’s
14 order also specifically cited Plaintiff’s expert witness testimony, finding it “well-reasoned and
15 convincing.” See *id.* at 5. Plaintiff also highlights the importance in obtaining complete
16 educational records under the IDEA. See *id.* at 4–5. Rather than a mere procedural violation,
17 Plaintiff describes obtaining complete records as a foundational guarantee, which provides
18 “parents the ability to make informed decisions about their child’s education” Id. at 5 (citing
19 *Amanda J. v. Clark Cnty. School*, 267 F.3d 877 (9th. Cir. 2001)).

20 The Court acknowledges that Plaintiff ultimately lost her claim that she was a prevailing
21 party under the IDEA when she raised similar arguments. However, the Court finds that Plaintiff
22 still had some basis for believing that she was a prevailing party. As to the choice of IAES,
23 although the ALJ did not adopt Plaintiff’s proposed IAES, she was nevertheless successful in
24 obtaining a change in educational placement. See *id.* at 7–8. And as to the educational records,
25 even the Ninth Circuit acknowledged on appeal that this was a “nuanced question.” *J.M. v.*
26 *Oakland Unified Sch. Dist.*, 804 F. App’x 501, 503 (9th Cir. 2020). The Ninth Circuit echoed
27 Plaintiff’s arguments about the central role that access to educational records play under the
28 IDEA. Id.; see also *Amanda J.*, 267 F.3d at 894 (holding that plaintiff was denied a free

1 appropriate public education because the school district failed to disclose the student’s full records
2 to her parents once they were requested). Defendant emphasizes that Plaintiff cites few cases in
3 support of her argument. See Dkt. No. 59 at 3. But this is neither surprising, given the fact-
4 intensive nature of the inquiry, nor dispositive. The Ninth Circuit has explained that “when there
5 is very little case law on point and a claim raises a novel question, the claim is much less likely to
6 be considered frivolous.” See C.W., 784 F.3d at 1245. Based on the record before it, the Court
7 cannot conclude that Plaintiff’s claims were frivolous.

8 **B. Improper Purpose**

9 In determining whether a claim was filed for an improper purpose, the Court may look to
10 the case law under Federal Rule of Civil Procedure 11. See C.W., 784 F.3d at 1244–45. As an
11 initial matter, “a non-frivolous claim is never filed for an improper purpose.” Id. at 1248
12 (quoting C.P. v. Prescott Unified Sch. Dist., 631 F.3d 1117, 1126 (9th Cir. 2011)). A claim may
13 be filed for an improper purpose if it is intended to “harass or to cause unnecessary delay or
14 needless increase in the cost of litigation.” Id. (quotation omitted). Additionally, an improper
15 purpose “may be found where a motion or paper, other than a complaint, is filed in the context of a
16 persistent pattern of clearly abusive litigation activity.” Id. (quotation omitted).

17 As the Court explained above, the Court does not find Plaintiff’s claims were frivolous.
18 Consequently, Plaintiff did not file them for an improper purpose. See id. at 1248. The District’s
19 remaining arguments are also not persuasive. Throughout the District’s briefing, it appears to
20 raise personal grievances with Ms. Amey and the specter of ethical concerns as to Ms. Amey’s
21 behavior during the course of this case. See, e.g., id. at 8. The Court understands that counsel
22 may have had difficulty working with Ms. Amey. But the District fails to explain how such
23 conduct, even if true, established an improper purpose in bringing Plaintiff’s motion for attorneys’
24 fees.

25 Awarding fees to school districts under § 1415 is reserved for “rare circumstances.” C.W.,
26 784 F.3d at 1244. And the Court does not find, on the record before it, that such rare
27 circumstances exist here. To the extent the District seeks Rule 11 sanctions in the alternative, the
28 Court also declines to exercise its discretion to impose such sanctions for the reasons discussed

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above.

IV. CONCLUSION

Accordingly, the Court **DENIES** the motion for attorneys' fees.

IT IS SO ORDERED.

Dated: 11/12/2020


HAYWOOD S. GILLIAM, JR.
United States District Judge