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10 Attorneys for CITY OF SAN JOSE

11 UNITED STATES DISTRICT COURT  
 12 NORTHERN DISTRICT OF CALIFORNIA  
 13 SAN JOSE DIVISION

14 CHIN-LI MOU,  
 15 Plaintiff(s),  
 16 v.  
 17 CITY OF SAN JOSE, SAN JOSE PUBLIC  
 18 LIBRARY EDUCATION PARK BRANCH,  
 19 and DOES, inclusive,  
 20 Defendant(s).

Case Number: C07-05740 JF

**DEFENDANT CITY OF SAN JOSE'S  
 RESPONSE TO PLAINTIFF'S  
 OBJECTION TO BILL OF COSTS**

**NOTICE OF COURT'S FINAL ORDER**

21 The court's records will indicate that Plaintiff, Mou was until very recently  
 22 represented by the court appointed counsel of Thomas R. Hogan. Mr. Hogan, while still  
 23 representing Plaintiff, received both a copy of the bill of costs filed by Defendant City of  
 24 San Jose and also was sent a copy of the final court's order awarding costs taxed in the  
 25 amount of \$1,029.90. The issue of whether Plaintiff herself received either of these filed  
 26 documents is solely an issue between her and her attorney Mr. Hogan, who properly  
 27

28 DEFENDANT CITY OF SAN JOSE'S RESPONSE TO PLAINTIFF'S OBJECTION TO BILL OF COSTS

1 received those documents in a timely and statutorily manner and who responded with no  
2 opposition.

3 **PLAINTIFF'S ALLEGED INDINGENCY**

4 Defendant City of San Jose finds no evidence submitted to the court to substantiate  
5 Plaintiff's claim of being indigent and therefore somehow relieving her of the statutory  
6 responsibility to pay for the public funds expended out of pocket by Defendant City of San  
7 Jose to defend her meritless claim. A very brief review of the Santa Clara County parcel  
8 records indicate that Ms. Mou is the current owner of a condominium located at 4141  
9 Boneso Circle in the City of San Jose with a total assessed value of approximately a  
10 quarter of a million dollars (\$246,809).

11 Ms. Mou is not an inexperienced litigant as exemplified by the complaint filed on her  
12 behalf in Santa Clara County Superior Court in 2006 (Case Number 1-06-CV-059679)  
13 concerning alleged misconduct at the Martin Luther King Library. She received a financial  
14 settlement in that matter and then proceeded to pursue a separate action which brought  
15 about this current case.

16 All efforts were made by Defendant to minimize the amount of costs incurred by the  
17 public entity and the amount is in no way substantial and is a debt that can be fulfilled over  
18 time.

19 One of the main issues surrounding the presumption in favor of granting costs to the  
20 prevailing party embodied in Federal Rule of Civil Procedure 54(d)(1) is that Plaintiff  
21 should weigh as a factor the potential of having to pay costs of the opposing party when  
22 deciding to file a lawsuit against a Defendant. Needless to say the Summary Judgment  
23 Motion filed by Defendants in this matter indicates the number of city employees and hours  
24 consumed in responding to Ms. Mou's reckless and sometimes incoherent allegations.  
25 That substantial internal cost to Defendant public entity will never be recovered.

26  
27 **ALLEGED MISCONDUCT BY PREVAILING PARTY**

1 Defendants counsel is not going to address the unsubstantial rantings of Plaintiff  
2 concerning her allegations that defense counsel engaged in “intentional lies and  
3 misrepresentation”. The costs in this matter represent primarily the deposition costs for  
4 Plaintiff Mou and a number of subpoenaed records. There is no substantiation whatsoever  
5 that any of the costs taxed in this matter were “unreasonably incurred or unnecessary to  
6 the case”.

7 **CONCLUSION**

8 Defendant, City of San Jose believes that Ms. Mou has untimely brought an  
9 objection to the bill of costs awarded in this matter and any lack of notice on her part  
10 should be addressed to her counsel of record at the time the cost bill was entered.  
11 Additionally, Ms. Mou has made no substantiated case for relief from this minimal cost bill  
12 due to indecency. If the court wishes to review the issue of misconduct in this case as  
13 invited by Plaintiff, Defendant, City of San Jose would argue that there is certainly a need  
14 for accountability when an individual is provided free counsel and still maintains allegations  
15 which cannot be substantiated in court. The bill of costs in this matter represents a  
16 minimal amount of accountability for the total circumstances brought into play solely by Ms.  
17 Mou’s overly active imagination.

18 For the above reasons, Defendant City of San Jose respectfully requests the court  
19 reinstate its prior order and judgment in the amount of \$1,029.90.

20  
21 Respectfully submitted,  
22 RICHARD DOYLE, City Attorney

23  
24 Dated: April 6, 2010

25 By: \_\_\_\_\_/S/\_\_\_\_\_  
26 ROBERT BURCHFIEL  
27 Sr. Deputy City Attorney

28 Attorneys for CITY OF SAN JOSE