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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

SANDRA WILLIAMS,
Plaintiff,
v.
COUNTY OF SANTA CLARA,
Defendant.

Case No. 15-cv-04494-BLF

**ORDER GRANTING PLAINTIFF’S
MOTION FOR REVIEW OF
TAXATION OF COSTS AND TO
DENY THE BILL OF COSTS**

[Re: ECF 220]

Before the Court is Plaintiff’s motion requesting the Court to review the amount of taxation of costs and to deny the bill of costs (“Motion”). Motion, ECF 220. Defendant opposes the Motion. Opp’n, ECF 221. The Court finds this matter appropriate for resolution without oral argument. *See* Civ. L.R. 7-1(b). Having considered the parties’ submissions and for the reasons stated below, the Court hereby GRANTS Plaintiff’s motion and DECLINES to award costs.

I. BACKGROUND

Pro se plaintiff Sandra Williams (“Ms. Williams”) is a former employee of the County of Santa Clara (“the County”). Ms. Williams initiated this action against the County, Santa Clara Valley Medical Center, and three county employees, alleging wrongful conduct including discrimination based on sex, age, and race, and failure to promote. *See* Compl., ECF 1-1.

On August 22, 2018, the Court granted in part and denied in part Defendants’ first motion for summary judgment. *See* ECF 119. Specifically, the Court determined that several disputed factual issues existed as to (i) Plaintiff’s racial discrimination claim under Title VII and the California Fair Employment and Housing Act¹ (“FEHA”) arising out of the failure to promote;

¹ California Government Code § 12900 et seq.

1 and (ii) Plaintiff’s claim of failure to prevent, investigate and remedy discrimination in violation of
2 FEHA. *See* ECF 119 at 42. The Court granted Defendants’ motion for summary judgment as to
3 all of Plaintiff’s other claims. *Id.* On November 5, 2018, the Court granted Defendants’ second
4 motion for summary judgment to dismiss all defendants except the County. *See* ECF 188.

5 A jury trial commenced on November 13, 2018. ECF 199. The County prevailed at trial,
6 with the jury determining that Ms. Williams did not prove a FEHA or Title VII violation. *See*
7 ECF 212. Judgment was entered in favor of the County and against Ms. Williams on November
8 19, 2018. ECF 213. As the prevailing party, the County submitted a bill of costs totaling
9 \$22,132.44. ECF 214. The Clerk taxed costs in the amount of \$6,034.40. ECF 219.

10 In the instant motion, Ms. Williams objects to the bill of costs that was taxed against her.
11 *See generally* Motion, ECF 220. She requests that the Court exercise its discretion under Federal
12 Rule of Civil Procedure 54(d) and deny any costs to the County. *Id.* at 1, 4. The County opposes.
13 *See generally* Opp’n, ECF 221.

14 **II. LEGAL STANDARD**

15 Federal Rule of Civil Procedure 54(d)(1) provides in relevant part: “Unless a federal
16 statute, these rules, or a court order provides otherwise, costs—other than attorney’s fees—should
17 be allowed to the prevailing party.” Fed. R. Civ. P. 54(d)(1). “By its terms, the rule creates a
18 presumption in favor of awarding costs to a prevailing party, but vests in the district court
19 discretion to refuse to award costs.” *Ass’n of Mexican Am. Educators v. California*, 231 F.3d 572,
20 591 (9th Cir.2000) (citing *National Info. Servs., Inc. v. TRW, Inc.*, 51 F.3d 1470, 1471 (9th Cir.
21 1995)). But the Court’s discretion is not unlimited; it must “specify reasons” for denying costs.
22 *Id.* at 591–92 (citing *Subscription Television, Inc. v. Southern Cal. Theater Owners Ass’n*, 576
23 F.2d 230, 234 (9th Cir. 1978)).

24 The Ninth Circuit has recognized the following as appropriate reasons for denying costs:
25 “(1) the substantial public importance of the case, (2) the closeness and difficulty of the issues in
26 the case, (3) the chilling effect on future similar actions, (4) the plaintiff’s limited financial
27 resources, and (5) the economic disparity between the parties.” *Escriba v. Foster Poultry Farms,*
28 *Inc.*, 743 F.3d 1236, 1247–48 (9th Cir. 2014). This list is “not an exhaustive list of good reasons

1 for declining to award costs, but [serves as] a starting point for [the] analysis.” *Id.* at 1248
2 (internal quotation marks omitted).

3 **III. DISCUSSION**

4 There is no dispute that the County is the prevailing party pursuant to Federal Rule of Civil
5 Procedure 54(d). Ms. Williams argues that her claims were of substantial public importance and
6 not frivolous, and that imposing costs on her may chill future civil rights litigation. *See id.* at 1–2.
7 Ms. Williams further argues that there is vast “economic disparity” between her and the County,
8 and that she has “limited financial resources,” supporting a denial of costs. *See id.* at 3–4. On the
9 other hand, the County contends the costs taxed are “modest” relative to Plaintiff’s annual income
10 and that “the case was not complex, publicly important, or close.” *See Opp’n* at 1. The Court
11 discusses in turn the five factors outlined in *Escriba v. Foster Poultry Farms, Inc.*, 743 F.3d 1236,
12 1247–48 (9th Cir. 2014).

13 First, in determining whether to deny costs, courts in this district have explained that a case
14 is considered to be of substantial importance “when the claims involved are subject to closer
15 scrutiny or special interest by the court, or the issues raised in the litigation have ramifications
16 beyond the parties and concerns immediately involved in the litigation.” *Ayala v. Pac. Mar. Ass’n*,
17 2011 WL 6217298, at *3 (N.D. Cal. Dec. 14, 2011); *Hunter v. City & Cty. of San Francisco*,
18 2013 WL 6088409, at *4 (N.D. Cal. Nov. 19, 2013). This case involved whether the County
19 failed to promote Ms. Williams due to racial discrimination under Title VII and FEHA, and
20 whether the County failed to prevent, investigate, and remedy discrimination in violation of
21 FEHA. Ms. Williams’s claim that the County failed to prevent, investigate, and remedy
22 discrimination in violation of FEHA raised important issues about the County’s general conduct in
23 the workplace with “ramifications beyond the parties and concerns immediately involved in the
24 litigation,” *see Ayala*, 2011 WL 6217298, at *3. Thus, this factor weighs in favor of denying
25 costs.

26 Second, with respect to the closeness and difficulty of the issues in the case, the Court
27 agrees with Ms. Williams that her claims were not without merit. The Court denied summary
28 judgment on two of Ms. Williams’s causes of action due to genuine disputes of material fact in the

1 record. Each side presented conflicting witness testimony at trial, and the jury ultimately had to
2 evaluate the evidence in coming to their determination in favor of the County. Accordingly, this
3 factor also weighs in favor of denying costs.

4 Third, the Court finds that awarding \$6,034.40 in costs could have a chilling effect on
5 similar civil rights actions in the future. The Ninth Circuit has held that it is an abuse of discretion
6 to fail to consider this chilling effect on civil rights litigants when determining whether to tax
7 costs. *Stanley v. University of Southern California*, 178 F.3d 1069, 1079–80 (9th Cir. 1999).
8 Other courts in this district have held that a cost award of similar amounts may have a chilling
9 effect on future civil rights litigation. *See Moujaes v. San Francisco City & Cty.*, 2017 WL
10 1540732, at *3–4 (N.D. Cal. Apr. 28, 2017) (declining to award costs in the amount of \$3,517.25).
11 The County argues that the costs taxed here are “modest,” *see* Opp’n at 3, however; “even modest
12 costs can discourage potential plaintiffs who . . . earn low wages,” *see Escriba*, 743 F.3d at 1249.
13 This factor therefore also weighs in favor of denying costs.

14 Fourth, the Court has considered Ms. Williams’s financial resources compared to the
15 \$6,034.40 amount taxed by the Clerk. “Whether the financial resources in question are of a
16 sufficient level to deny an award of costs can be inferred from the economic circumstances of the
17 plaintiff.” *Ayala*, 2011 WL 6217298, at *2. Ms. Williams states that she currently receives a total
18 “income of \$6567 per month.” *See* Motion at 4. Ms. Williams further states that she is the sole
19 provider for herself and her dependent child and that her monthly expenses at least equal her
20 monthly income. *See id.* However, Ms. Williams has not shown that on the basis of her present
21 financial resources she would be unable to pay the bill of costs, or that she would be made
22 indigent by an award of costs. Thus, this factor weighs against denying costs. *See Ayala*, 2011
23 WL 6217298, at *3.

24 Fifth, as Ms. Williams argues, *see* Motion at 3, there is significant economic disparity
25 between the parties. However, this factor is of limited significance where the losing party has the
26 ability to pay and in this circumstance is on its own insufficient to overcome the presumption in
27 favor of awarding costs. *See Ayala*, 2011 WL 6217298, at *2.

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In conclusion, Ms. Williams has adequately rebutted the presumption in favor of awarding costs to the prevailing party. This is a case brought in good faith, with meritorious claims that involved issues of substantial public importance. Awarding the costs sought by the County in this case would discourage potential plaintiffs from bringing suit to enforce their civil rights. Although Ms. Williams has not shown a financial reason why costs should not be awarded, the combination of factors is a sufficient basis for denying costs. *See Ayala*, 2011 WL 6217298, at *5 (denying award of costs due to similar combination of factors).

IV. ORDER

For the foregoing reasons, Plaintiff’s request for the Court to exercise its discretion to deny costs is GRANTED. The Court DECLINES to award costs.

IT IS SO ORDERED.

Dated: March 25, 2019


BETH LABSON FREEMAN
United States District Judge