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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

JOHN B. KENNEY, Plaintiff, v. KASEYLEE LAWRENCE, MATTHEW KOEBER, Defendant.	CASE NO. 13cv248 WQH-AGS ORDER

HAYES, Judge:

The matter before the Court is the request to review the Order taxing costs filed by Plaintiff John Kenney. (ECF No. 706).

On April 2, 2018, the Court entered judgment in favor of Defendants pursuant to the verdict of the jury .

On April 11, 2018, Defendant filed a Bill of Costs requesting costs in the amount of $9,183.33, for fees for service of process, transcripts, witness fees, and copy costs. Plaintiff filed an opposition.

On July 6, 2018, the Clerk of the Court entered an "Order taxing costs" in the amount of $4,485.58.

On July 13, 2018, Plaintiff filed a motion requesting that this Court review the order taxing costs. Defendants filed an opposition.

"Unless a federal statute, these rules, or a court order provides otherwise, costs--other than attorney's fees--should be allowed to the prevailing party." Fed. R. Civ. P. 54(d)(1). "A review of the decision of the clerk in the taxation of costs may be

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taken to the court on motion to re-tax by any party in accordance with Rule 54(d), Fed. R. Civ. P., and Civil Local Rule 7.1." S.D. Cal. Civ. R. 54.1(h).

After review of the pleadings and the Order taxing costs, the Court concludes that the taxing of costs pursuant to Rule 54(b) of the Federal Rules of Civil Procedure was proper. "Rule 54(d)(1) creates a presumption in favor of awarding costs to the prevailing party which may only be overcome by pointing to some impropriety on the part of the prevailing party that would justify a denial of costs." *Russian River Watershed Prot. Comm. v. City of Santa Rosa*, 142 F.3d 1136, 1144 (9th Cir. 1998). The Order taxing costs (ECF No. 703) properly concluded that the costs to subpoena Miki Shimada and Plaintiff's experts, the witness fees for Miki Shimada, and the copying fees for two sets of exhibit binders are recoverable under Fed. R. Civ. P. 54 and S.D. Cal. Civ. R. 54.

IT IS HEREBY ORDERED that the motion to re-tax, requesting review of the Order taxing costs, filed by Plaintiff John Kenney (ECF No. 706) is denied.

DATED: October 10, 2018

William Q. Hayes

WILLIAM Q. HAYES
United States District Judge