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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 WILLIAM J. CANNON,

11 Plaintiff,

12 v.

13 AUSTAL USA, LLC and UNITED
14 STATES OF AMERICA,

15 Defendants.

Case No.: 15-cv-2582-CAB (BLM)

**ORDER DENYING PLAINTIFF'S
MOTION TO RE-TAX COSTS**

[Doc. No. 148]

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17 On October 24, 2017, the Court granted the motions for summary judgment filed by
18 Defendants, and the Clerk of Court entered judgment in favor of Defendants and against
19 Plaintiff. After the judgment, both Defendants filed bills of costs [Doc. Nos. 135, 137],
20 each of which sought only fees for printed or electronically recorded transcripts necessarily
21 obtained for use in this case. Plaintiff objected to these costs [Doc. No. 139], and a hearing
22 was held on November 21, 2017. On December 1, 2017, the Clerk of Court taxed costs of
23 \$8,158.97 in favor of Defendant United States of America, and of \$6,134.83 in favor of
24 Defendant Austal USA, LLC. [Doc Nos. 143, 144.] Plaintiff now moves to retax these
25 costs.

26 “Unless a federal statute, [the Federal Rules of Civil Procedure], or a court order
27 provides otherwise, costs—other than attorney’s fees—should be allowed to the prevailing
28 party.” Fed. R. Civ. P. 54(d)(1). Here, Plaintiff’s motion argues that Defendants did not

1 establish that they had a reasonable expectation that the depositions for which they sought
2 costs of transcription would be used for trial preparation. However, attorneys for both
3 Defendants signed declarations under penalty of perjury that the costs they sought were
4 necessarily incurred, and Plaintiff even admits that he noticed 14 of the 22 depositions in
5 question. Plaintiff offers no evidence or argument as to why these declarations were
6 insufficient or erroneous, and the Court finds this objection to be frivolous. The Court
7 declines to retax costs on this ground.

8 Plaintiff otherwise does not contest any of the particular costs awarded; he simply
9 argues that the Court should exercise discretion to deny costs to Defendants. However,
10 despite Plaintiff's arguments to the contrary, there is no question that both Defendants were
11 the prevailing parties with respect to Plaintiff's claims. Therefore, Defendants are entitled
12 to their costs from Plaintiff. None of Plaintiff's other arguments persuade the Court that
13 an exception to this rule is warranted. Accordingly, Plaintiff's motion to re-tax costs is
14 **DENIED.**

15 It is **SO ORDERED.**

16 Dated: December 8, 2017



Hon. Cathy Ann Bencivengo
United States District Judge