

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

SPIRIT OF ALOHA TEMPLE AND)	CIVIL NO. 14-00535 SOM/RLP
FREDRICK R. HONIG,)	
Plaintiffs,)	ORDER RE BILL OF COSTS
)	
vs.)	
)	
COUNTY OF MAUI,)	
)	
Defendant,)	
)	

ORDER RE BILL OF COSTS

On August 23, 2019, the jury returned a verdict in favor of Defendant County of Maui and against Plaintiff Spirit of Aloha Temple. See ECF No. 392. Judgment was entered the same day. See ECF No. 393. On September 6, 2019, the County of Maui filed a Bill of Costs and a Motion for Attorneys' Fees. See ECF Nos. 396 and 397.

On September 9, 2019, Magistrate Judge Wes Reber Porter filed a minute order, stating that the Local Rules had been amended effective September 1, 2019. Magistrate Judge Porter noted that new Local Rule 54.2 "requires a pre-motion meet and confer and a joint statement in addition to other requirements related to the fees requested." Magistrate Judge Porter allowed the County of Maui to withdraw its motion for attorneys' fees and to file a new motion after Local Rule 54.2 had been complied with. See ECF No. 398. The County did that, but it met and

conferred only as to attorneys' fees and nontaxable costs, not taxable costs. See ECF No. 407.

On September 25, 2019, the Clerk of Court taxed costs in the amount of \$17,755.72. See ECF No. 404. On October 1, 2019, Plaintiff Spirit of Aloha Temple filed a motion seeking court review of the taxed costs. See ECF No. 405.

On December 6, 2019, Magistrate Judge Porter filed Findings and Recommendation to Grant in Part and to Deny in Part Plaintiff Spirit of Aloha Temple's Motion for Review of Taxable Costs, recommending taxing costs of \$16,458.95 ("F&R"). See ECF No. 428. On December 20, 2019, Plaintiff Spirit of Aloha Temple filed objections to the F&R, raising three main arguments. See ECF No. 431. First, Plaintiff Spirit of Aloha Temple argues that, under new Local Rule 54.1(a), failure to comply with any requirement of Local Rule 54.1 waives a party's right to seek costs. Second, Plaintiff Spirit of Aloha Temple objects to some of the taxed costs. Finally, Spirit of Aloha Temple contends that taxation of costs should be stayed pending appeal.

Under the circumstances presented here, this court overrules Plaintiff Spirit of Aloha Temple's objection to the extent it seeks to deem taxation of costs waived. Under Local Rule 1.2, this court may order that the prior version of the Local Rules governs when justice requires. Here, the version of the Local Rules in effect at the time of Judgment had no

provision waiving the right to taxation of costs when Local Rule 54.1 is not followed. Moreover, when the Magistrate Judge told Defendant County of Maui that only its attorneys' fees motion did not comply with the new Local Rules, the County may have thought that its bill of costs was being deemed to have complied with the Local Rules. (The reality is that the bill of costs was at that point with the Clerk of Court.)

In any event, to cure any prejudice that may have arisen from any potential lack of compliance with the meet and confer or memorandum requirements, and because Plaintiff appears to agree that an award of some costs is appropriate, the parties are ordered to meet and confer no later than February 14, 2020, to identify taxable costs not in dispute. The parties are also ordered to discuss a possible settlement of the taxable costs, as well as a settlement of the attorneys' fees and nontaxable costs issues.

To aid the parties in their meet and confer discussion, this court denies Plaintiff's request to stay the taxable costs pending appeal. If Plaintiff Spirit of Aloha Temple would like to stay taxable costs, it must post a bond for the full amount of those costs or have a stipulation to that effect.

No later than February 21, 2020, the parties shall file a joint statement describing the results of the meet and confer.

IT IS SO ORDERED.

DATED: Honolulu, February 6, 2020.



/s/ Susan Oki Mollway
Susan Oki Mollway
United States District Judge

Spirit of Aloha Temple, et al. v. County of Maui, Civ. No. 14-00535 SOM/WRP;
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