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**Parties/Attorneys:**

Plaintiff	Sicilia Mendoza	Mallison & Martinez
Defendant	Fresh Venture Foods	Mullen & Henzel Rafael Gonzalez Brian Daly
Defendant	Central City Foods	Charley Stoll
Defendant	Marisol Garcia	Charley Stoll

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Defendant Fresh Venture Foods, LLC (“Fresh Venture Foods”) operates a food processing facility in Santa Maria, CA. Plaintiff Sicilia Mendoza (“Plaintiff”) worked at Fresh Venture Foods’ processing facility on a production line. Plaintiff alleged that during her employment, she was continually subjected to harassment while working for Defendants in the form of supervisor Javier Bravo’s unconsented physical touching, sexual harassment, stalking, and offering money or favor in exchange for sex. Her complaint alleged a single cause of action for wrongful termination in violation of public policy.

After plaintiff completed her presentation of evidence, the trial court granted Fresh Venture Foods’ motion for judgment pursuant to Code of Civil Procedure section 631.8, subdivision (a). The court concluded that plaintiff had not followed defendant’s internal complaint procedures and therefore she had not proved the following element of her cause of action: “[H]er working conditions were so intolerable that a reasonable person in her position would have no reasonable alternative except to resign.” (See *Turner v. Anheuser-Busch, Inc.* (1994) 7 Cal.4th 1238, 1248 [“the standard by which a constructive discharge is determined is an objective one the question is ‘whether a reasonable person faced with the allegedly intolerable employer actions or conditions of employment would have no reasonable alternative except to quit’.”].) The decision was affirmed on appeal on September 23, 2025.

On October 8, 2025, defendant filed its Memorandum of Costs for \$15,465.55, comprising of \$1,632.55 in filing and motion fees, \$11,757.00 in deposition costs, and \$2,076.00 for service of process. Plaintiff moves the court for an order striking or reducing the requested costs. Notably, plaintiff does not challenge the reasonableness of the costs. Instead, she argues this case “presents the court with an exception to Code of Civil Procedure section 1035.5 (sic) which authorizes the Court to exercise its discretion to reduce or deny otherwise recoverable costs.”

Code of Civil Procedure section 1032(b) provides that civil defendants are “entitled as a matter of right” to recover their costs “[e]xcept as otherwise expressly

provided by statute.” In *Williams v. Chino Valley Independent Fire Dist.* (2015) 61 Cal.4th 97, 101, the court concluded that Government Code section 12965 subdivision (b), which allows discretion in cost awards rather than requiring them as a matter of right, was an express exception to Code of Civil Procedure section 1032(b). The court held that Government Code section 12965 subdivision (b) therefore governs costs awards in FEHA cases.

Plaintiff concedes that the instant matter is not a FEHA case. She nevertheless argues that her claim sought to vindicate “FEHA-adjacent rights” of protecting employees from harassment and retaliation-rights that serve identical public interests. She argues the court should accordingly conclude that costs awards should be analyzed under Government Code section 12965 subdivision (b), and *Williams*, under which a prevailing defendant should not be awarded fees and costs unless the court finds the action was objectively without foundation when brought, or the plaintiff continued to litigate after it clearly became so. (*Williams, supra*, 61 Cal.4th at 115.)

However, there are procedural differences between FEHA cases and the common law tort claim of wrongful termination. For example, a plaintiff pursuing a wrongful termination claim in violation of public policy based on FEHA does not need to exhaust FEHA administrative remedies, such as filing a complaint with the Department of Fair Employment and Housing (DFEH) or obtaining a notice of right to sue. (*Wade v. Ports America Management Corp.* (2013) 218 Cal.App.4th 648, 655-656.) The statute of limitations for a common law wrongful termination claim based on FEHA’s public policy is governed by California Code of Civil Procedure § 335.1, which provides a two-year limitation period for tort actions based on injuries caused by wrongful acts or neglect. (*Prue v. Brady Co./San Diego, Inc.* (2015) 242 Cal.App.4th 1367, 1382.) This is different from the one-year statute of limitations applicable to direct FEHA claims under California Government Code § 12965(b). (*Id.*)

Plaintiff has cited no cases holding that the court is authorized to apply the provisions of the FEHA statutory scheme to the common law tort of wrong termination. In fact, courts are directed to allocate costs associated with FEHA and non-FEHA claims. In *Moreno v. Bassi* (2021) 65 Cal.App.5th 244, an employee sued her employer and “lost all the FEHA claims, lost some non-FEHA claims, and prevailed on some non-FEHA claims.” (*Moreno, supra*, 65 Cal.App.5th at p. 249.) The trial court nonetheless awarded the plaintiff “all of her costs ... without conducting an inquiry into which costs, if any, were incurred solely as a result of ... the FEHA causes of action” on which she did not prevail. (*Id.* at p. 263.) Thus, the Court of Appeal remanded the matter to the trial court to make the determination and adjust the award of costs if necessary. (*Ibid.*) In so doing, the court noted: “It falls within the trial court’s discretion to seek input from the parties, such as additional briefing in which the parties identify the costs they

contend were caused solely by the inclusion of the FEHA causes of action in the lawsuit, before deciding which costs [plaintiff] is entitled to recover.” (*Ibid.*)

Accordingly, the court is not convinced that it should rely upon the FEHA cost provisions in this non-FEHA case, even if the wrongful termination claims are FEHA-adjacent. A *traditional* common law tort – which is what is at issue – remains governed by *traditional* cost provisions.

Plaintiff likewise argues that Code of Civil Procedure section 1021.5 is analogous to FEHA’s fee-shifting provision in that it authorizes courts to depart from ordinary cost rules where necessary to promote private enforcement of important public rights. The court is likewise not convinced that this statute should be applied in this case. Plaintiff fails to provide any authority in support of this argument. The court is thus not persuaded to adopt this argument. (See *Quantum Cooking Concepts, Inc. v. LV Associates, Inc.* (2011) 197 Cal.App.4th 927, 934—“Rule 3.1113 rests on a policy-based allocations of resources, preventing the trial court from being cast as a tacit advocate for the moving party’s theories by freeing it from any obligation to comb the record and the law for factual and legal support that a party has failed to identify or provide.”)

The motion to tax costs is denied.

The parties are instructed to appear at the hearing for oral argument. Appearance by Zoom Videoconference is optional and does not require the filing of Judicial Council form RA-010, Notice of Remote Appearance. (See Remote Appearance (Zoom) Information | Superior Court of California | County of Santa Barbara.)