

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

JEFFREY BRISBOIS,

Plaintiff,

v.

Case No: 6:16-cv-1589-Orl-31GJK

UNITED STATES OF AMERICA,

Defendant.

REPORT AND RECOMMENDATION

This cause came on for consideration without oral argument on the following motions:

MOTION: DEFENDANT’S MOTION FOR CLERK’S TAXATION OF COSTS (Doc. No. 74)

FILED: November 15, 2018

THEREON it is RECOMMENDED that the motion be GRANTED in part and DENIED in part.

MOTION: PLAINTIFF’S OBJECTION TO DEFENDANT’S BILL OF COSTS/MOTION TO TAX COSTS (Doc. No. 75)

FILED: December 1, 2018

THEREON it is RECOMMENDED that the motion be GRANTED in part and DENIED in part.

I. BACKGROUND.

On November 1, 2018, a judgment was entered in favor of Defendant. Doc. No. 72. On November 15, 2018, Defendant filed a Proposed Bill of Costs and a Motion for Clerk’s Taxation

of Costs (the “Motion to Tax Costs”). Doc. Nos. 73 and 74. Defendant sought costs for transcripts, printing, witness fees, and copies totaling \$9,845.78, which included:

Transcripts	\$5,630.24
Printing	\$ 420.37
Witness Fees	\$ 586.17
Copying Fees	\$2,859.00
Dr. McGrail Testimony	\$ 350.00

Doc. No. 74.

On December 1, 2018, Plaintiff filed an “Objection to Defendant’s Bill of Costs/Motion to Tax Costs” (the “Motion to Review”). Doc. No. 75. Plaintiff raises two objections. Doc. No. 75. First, Plaintiff argues there is a discrepancy between the costs for transcripts in the Bill of Costs, \$5,980.24, and the costs for transcripts listed in the Motion to Tax Costs, \$5,630.24. Doc. No. 75 at 1. Second, Plaintiff argues that Defendant’s charge for copying, \$.25 per page, is excessive when commercial bulk copying could be accomplished for as little as \$.04 per page. Doc. No. 75 at 1. Plaintiff does not otherwise object to the costs sought in the Bill of Costs or Motion to Tax Costs. Doc. No. 75.

II. APPLICABLE LAW.

A prevailing party is entitled to recover costs as a matter of course unless otherwise directed by a court or statute. Fed. R. Civ. P. 54(d)(1). Taxable costs are enumerated in 28 U.S.C. § 1920 and include reasonable and necessary expenses associated with photocopying in preparation for trial. 28 U.S.C. § 1920(4); *see Am. Home Assur. Co. v. Phineas Corp.*, Case No. 8:02-cv-736, 2004 U.S. Dist. LEXIS 26858, at *3-4 (M.D. Fla. Sept. 17, 2004).

The Court may reduce proposed photocopy costs to the extent they are found to be excessive. *Id.* at *9; see *Patsalides v. City of Fort Pierce*, Case No. 15-cv-14431, 2017 U.S. Dist. LEXIS 154375, at *23 (S.D. Fla. Sept. 20, 2017) (finding printing costs of 65 cents per page excessive, and reducing that amount to 14 cents per page).

III. ANALYSIS.

The Court finds that Plaintiff's first objection is well-taken. A review of the Motion to Tax Costs reflects that Defendant seeks deposition and trial transcript fees totaling \$5,630.24, not \$5,980.24.¹ Doc. No. 74 at 2; Doc. No. 73. The invoices attached to the Motion to Tax Costs for deposition transcripts support the amount sought in the Motion to Tax Costs. Doc. No. 74-1 at 2-11. Thus, it is recommended that Defendant be awarded \$5,630.24 for transcription costs instead of \$5,980.24.

With respect to Plaintiff's second objection, Plaintiff argues that \$.25 per page for copying is excessive and Defendant should only receive reimbursement at a rate of \$.05 per page based on the current market rate to have the same copies prepared at Staples or a similar commercial outlet. Doc. No. 75 at 1. Generally, in the Middle District, as well as in other courts in the Eleventh Circuit, the reasonable market rate for copies is found to be \$.10 to \$.15 per page. *Bostick v. State Farm Mut. Auto. Ins. Co.*, Case No. 8:16-cv-1400, 2018 U.S. Dist. LEXIS 39057, at *9 (M.D. Fla. Mar. 8, 2018). The Court recommends reducing the per page charge requested by Defendant from \$.25 per page to \$.10 per page for a total expense of \$1,143.60.²

Accordingly, it is **RECOMMENDED** that:

¹ It appears that a separate cost of \$350 for Dr. McGrail's video testimony at trial may have been included as part of the deposition transcript costs in the Bill of Costs. *Compare* Doc. No. 73 *with* Doc. No. 74 at 6. That expense has been requested separately in the Motion to Tax Costs and Plaintiff has not objected to that requested expense. Doc. No. 74 at 6; Doc. No. 75.

² Plaintiff produced 11,436 copies for trial notebooks. Doc. No. 74 at 8.

1. The Motion to Tax Costs (Doc. No. 74) be **GRANTED** in part and **DENIED** in part;
2. The Motion for Review (Doc. No. 75) be **GRANTED** in part and **DENIED** in part;
3. Plaintiff's requested costs for deposition transcripts be reduced to \$5,630.24;
4. Plaintiff's photocopying expense be reduced from \$2,859.00 to \$1,143.60;
5. The Motion to Tax Costs otherwise be **GRANTED**;
6. The Motion for Review otherwise be **DENIED**; and
7. Defendant be awarded costs of \$8,130.38 as follows:

Transcripts	\$5,630.24
Printing	\$ 420.37
Witness Fees	\$ 586.17
Copying Fees	\$1,143.60
Dr. McGrail Testimony	\$ 350.00

NOTICE TO PARTIES

A party has fourteen days from this date to file written objections to the Report and Recommendation's factual findings and legal conclusions. Failure to file written objections waives that party's right to challenge on appeal any unobjected-to factual finding or legal conclusion the district judge adopts from the Report and Recommendation. 11th Cir. R. 3-1.

DONE in Orlando, Florida, on December 26, 2018.



 GREGORY J. KELLY
 UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

Counsel of Record
 Unrepresented Parties