

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

JEFFREY THELEN,

Plaintiff,

v.

Case No: 8:20-cv-1724-TPB-JSS

SOMATICS, LLC, and  
ELEKTRIKA, INC.,

Defendants.

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**ORDER ADOPTING REPORT AND RECOMMENDATION**

This matter is before the Court on the report and recommendation of United States Magistrate Judge Julie S. Sneed entered on September 18, 2023 (Doc. 284). Judge Sneed recommended granting in part and denying in part “Plaintiff’s Motion to Review the Clerk’s Taxation of Costs” (Doc. 280). In particular, Judge Sneed recommended that Plaintiff Jeffrey Thelen’s arguments that no costs be awarded to Defendant, Somatics, LLC, be rejected, but recommended sustaining some of Plaintiff’s objections that certain items of costs be excluded or reduced. Judge Sneed concluded that, of the \$39,066.56 in costs originally taxed by the Clerk, a total of \$27,863.56 should be awarded. Plaintiff filed objections to the report and recommendation on October 2, 2023. (Doc. 285). Somatics filed a response to the objections on October 11, 2023. (Doc. 286).

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject, or modify the magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983); *Williams v. Wainwright*, 681 F.2d 732 (11th Cir. 1982). A district court must “make a de novo determination of those portions of the [report and recommendation] to which an objection is made.” 28 U.S.C. § 636(b)(1)(C). When no objection is filed, a court reviews the report and recommendation for clear error. *Macort v. Prem, Inc.*, 208 F. App'x 781, 784 (11th Cir. 2006); *Nettles v. Wainwright*, 677 F.2d 404, 409 (5th Cir. 1982).

Upon due consideration of the record, including Judge Sneed's report and recommendation, the Court adopts the report and recommendation in its entirety.<sup>1</sup> The Court agrees with Judge Sneed's well-reasoned factual findings and conclusions, and the objections do not provide any basis for overruling the report and recommendation. This Court is not unsympathetic to Plaintiff's situation and has carefully considered the argument that it should exercise its discretion to deny or limit costs in view of Plaintiff's financial status. The Court is unwilling to exercise its discretion as requested due to Plaintiff's failure to address his

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<sup>1</sup> Judge Sneed recommended that taxing of costs be deferred until Plaintiff's motion for new trial or to alter or amend the judgment is adjudicated. This Court denied Plaintiff's post-trial motion on November 7, 2023. (Doc. 287).

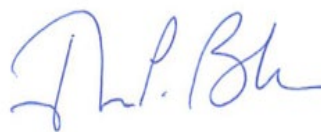
settlement with Somatics' co-defendant Elektrika, Inc., shortly before trial.

Accordingly, it is hereby

**ORDERED, ADJUDGED, and DECREED:**

- (1) Judge Sneed's report and recommendation (Doc. 284) is **AFFIRMED** and **ADOPTED** and **INCORPORATED BY REFERENCE** into this Order for all purposes, including appellate review.
- (2) "Plaintiff's Motion to Review the Clerk's Taxation of Costs" (Doc. 280) is **GRANTED IN PART** and **DENIED IN PART** as set forth herein.
- (3) Defendant is awarded taxable costs in the amount of \$ 27,863.56, and the Clerk is **DIRECTED** to enter judgment for costs in that amount in favor of Defendant Somatics, LLC, and against Plaintiff Jeffrey Thelen.

**DONE and ORDERED** in Chambers in Tampa, Florida, this 5th day of January, 2024.



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**TOM BARBER**  
**UNITED STATES DISTRICT JUDGE**