

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

PROSLIDE TECHNOLOGY, INC.,

Plaintiff,

v.

Case No: 6:20-cv-2189-CEM-DCI

**WHITEWATER WEST INDUSTRIES,
LTD.,**

Defendant.

ORDER

This cause comes before the Court for consideration with oral argument on the following motions:

MOTION: Defendant's Motion for Determination of Entitlement to Prevailing Party Bill of Costs Taxable Under 28 U.S.C. § 1920 (Doc. 534)

FILED: December 26, 2023

MOTION: Plaintiff's Motion for Attorney Fees (Doc. 535)

FILED: December 26, 2023

MOTION: Defendant's Motion for Reconsideration of Order Striking Defendant's Opposition to Plaintiff's Bill of Costs (Doc. 565)

FILED: January 12, 2024

THEREON it is ORDERED that Defendant's Motion for Determination (Doc. 534) and Plaintiff's Motion for Attorney Fees (Doc. 535) are DENIED without prejudice and Defendant's Motion for Reconsideration (Doc. 565) is DENIED.

On December 12, 2023, the Clerk entered Judgment in favor of Plaintiff and against Defendant in the amount of \$985,752. Doc. 513 (the Judgment). The parties have since filed

several motions that relate to the finality of the Judgment and, therefore, relief may impact the prevailing party determination along with entitlement to and the amount of fees and costs.¹ Further, appeals may be forthcoming. Regardless, the parties have filed motions that relate to the request for fees and costs pursuant to Local Rule 7.01, Federal Rule of Civil Procedure 54, and 28 U.S.C. § 1920. Docs. 534, 535.

Specifically, Defendant moves for a Determination of Entitlement to Prevailing Party Bill of Costs Taxable Under 28 U.S.C. § 1920 (Doc. 534, Defendant's Motion for Determination) and Plaintiff has filed a Motion for Attorney Fees (Doc. 535, Plaintiff's Motion for Attorney Fees). Also, upon the filing of Plaintiff's Proposed Bill of Costs, the Clerk has taxed costs against Defendant. Docs. 526, 558. The Court struck Defendant's Response in Opposition to Plaintiff's Proposed Bill of Costs because neither the Federal Rules of Civil Procedure nor the Local Rules of this Court permit a response to a bill of costs. Doc. 552, citing Fed.R.Civ.P. 54(d)(1); Local Rule 7.01. Defendant has filed a Motion for Reconsideration of the Order Striking Defendant's Opposition. Doc. 565 (Defendant's Motion for Reconsideration).

On January 16, 2024, the Court conducted a hearing on Defendant's Motion for Determination, Plaintiff's Motion for Attorney Fees, and Defendant's Motion for Reconsideration. Given the procedural posture of the case, the Court advised the parties that it was inclined to find that a ruling on the issue of fees and costs is premature. *Cf. Founders Ins. Co. v. Cortes-Garcia*, 2013 WL 461731, at *7-8 (M.D. Fla. Feb. 7, 2013) (noting that if an appeal is pending or other

¹ Namely, the parties have filed a motion for sanctions, motions for judgment as a matter of law, motion for enhanced damages, motion to dismiss for lack of standing, motion to amend judgment, and motion for new trial. Docs. 347, 465, 492, 493, 508, 514, 544, 546, and 547. These motions remain pending.

issues remain unresolved, the proper procedure is to deny a motion for fees and costs pending a final resolution of the case). The parties did not object.

Accordingly, for the reasons stated at the hearing, it is **ORDERED** that:

1. Defendant's Motion for Determination (Doc. 534) is **DENIED without prejudice**;
2. Plaintiff's Motion for Attorney Fees (Doc. 535) is **DENIED without prejudice**;
3. Defendant's Motion for Reconsideration (Doc. 565) is **DENIED**;
4. Fourteen days after either (a) the time to appeal the judgment in this case expires or (b), if a notice of appeal is filed, the date of the dismissal of that appeal or the issuance of the mandate by the Circuit,² the parties must file any motion concerning attorney fees, non-taxable costs, or taxable costs, including but not limited to any motion to review the Bill of Costs taxed by the Clerk; and
5. Failure to file a motion concerning attorney fees and costs within the time provided may result in the denial of any subsequent motion seeking an award of attorney fees and costs.

ORDERED in Orlando, Florida on January 16, 2024.



DANIEL C. IRICK
UNITED STATES MAGISTRATE JUDGE

² If a contingency occurs that is not anticipated by this order, the parties may file a motion to clarify or modify the briefing schedule.