

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

DAVID SCHWARTZ,

Plaintiff,

v.

Case No.: 2:21-cv-283-SPC-KCD

ADP, INC. and AUTOMATIC  
DATA PROCESSING, INC.,

Defendants.

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**ORDER**

In one motion Defendants include three requests for relief: (1) determine entitlement to reasonable attorney's fees, (3) tax costs, and (3) extend time to move for fees under the Florida Deceptive and Unfair Trade Practices Act to fourteen days from the expiration of any appeal of the judgment. (Doc. 136.) The motion has a couple problems.

First, combining three requests in one motion is improper. The motion for entitlement and motion for extension should be separate.

Second, motions to tax costs are no longer required under this Court's local rules. Such motions are now governed by Fed. R. Civ. P. 54, which provides "[t]he clerk may tax costs on 14 days' notice. On motion served within the next 7 days, the court may review the clerk's action." Thus, judicial review is only required when the non-prevailing party challenges the propriety of the

Clerk of Court's taxation of costs against the non-prevailing party. *See Winnie v. Infectious Diseases Assocs., P.A.*, No. 8:15-cv-2727-T-35MAP, 2018 WL 10456833, at \*1 (M.D. Fla. Mar. 19, 2018). Defendants have already filed a proposed bill of costs. (Doc. 137.) Within 7 days of the Clerk of Court taxing any cost against Plaintiff, he may seek judicial review. Fed. R. Civ. P. 54(d)(1).

Thus, the Court **DENIES** the Motion (Doc. 136) without prejudice to refile by **January 18, 2023**, remedying the problems identified in this Order.

**ORDERED** in Fort Myers, Florida this January 12, 2023.



Kyle C. Dudek  
United States Magistrate Judge

Copies: All Parties of Record