

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

BILL OF COSTS

Defendants hereby submit the Bill of Costs pursuant to 28 U.S.C. § 1920, Fed. R. Civ. P. 54(d)(1) and L.R. 54.1(a) in the amount of \$4,700.69. The basis for the total amount sought is detailed in the attached Bill of Costs Form (AO 133) (Exhibit A), supporting Declaration of Kathleen Ori (Exhibit B), and invoices (Exhibit C), which are submitted with this pleading.

Background

Plaintiff brought this action against Defendants alleging claims of age and disability discrimination, retaliation, and violations of FMLA. After a two-day jury trial, the Court granted Defendants' motion for judgment as a matter of law [875]. In its judgment order, the Court stated that Defendants were entitled to recover costs [876]. Defendants seek recovery for deposition costs and courtroom transcription costs incurred to defend the instant action.

Items Sought

Fed. R. Civ. P. 54(d)(1) states that “[u]nless a federal statute, these rules, or a court order provides otherwise, costs – other than attorney’s fees should be allowed to the prevailing party.” Defendants are the prevailing parties on all claims. As a result, Defendants should be awarded

their taxable costs as a matter of course. The costs to be awarded encompass court reporter and transcription costs.

Defendants deposed Plaintiff two times via videography: before summary judgment and after Plaintiff moved to reopen discovery after this matter was remanded for trial. Additionally, Plaintiff deposed Wylola Shinnawi. Defendants seek \$2,315.79 in court reporter attendance fees and costs for these three depositions. Additionally, Defendants incurred \$87.50 in synchronization costs to make video clips of Plaintiff's deposition testimony in anticipation of impeachment at trial. Rather than incur the costs of synchronizing Plaintiff's entire deposition, counsel for Defendants chose a limited number of excerpts that could have been impeaching at trial.

Additionally, the parties participated in two pre-trial hearing conferences before the Court and then proceeded to a two-day trial. Defendants obtained the transcripts for one day of the pre-trial conference, splitting the costs with Plaintiff (\$184.15) and the transcripts from the trial (\$2,113.25). The pre-trial hearing transcript was used in preparing for trial and both transcripts were used for post-hearing briefing.

Legal Standard

FRCP 54(d) and Local Rule of the United States District Court, Northern District of Illinois ("Local Rule") 54.1(a) entitles Defendants, as the prevailing parties, to recover costs that were reasonably and necessarily incurred to defend against Plaintiff's claims. Subsection (2) of 28 U.S.C. § 1920 specifically authorizes the taxing of deposition expenses as costs. *See Hudson v. Nabisco Brands, Inc.*, 758 F.2d 1237, 1242 (7th Cir. 1985). The prevailing party may recover costs for both video-recording and stenographic transcription of a deposition. *Little v. Mitsubishi Motors N. Am., Inc.*, 514 F.3d 699, 701-702 (7th Cir. 2008). *See also Corcoran v. City of Chicago*, 2015 U.S. Dist. LEXIS 122501 at *18 (where the court held that the video deposition was

reasonable to ensure his testimony was preserved in the event of unavailability but also for impeachment purposes). Here, Plaintiff's video depositions show demeanor, body language, intonation and facial expressions, and, had there been an opportunity for impeachment, a jury would have been better able to weigh the credibility of Plaintiff's testimony instead of hearing the transcript read into the record. Further, given the importance of Plaintiff's testimony in this lawsuit, the costs Defendants incurred for videography were necessary and reasonable and should accordingly be taxed to Plaintiff. *See Corcoran v. City of Chicago* at *18. As such, these fees are recoverable.

Local Rule 54.1(b) limits per page transcript costs to \$4.00, and on that basis, Defendants lowered the cost of Plaintiff's second transcript from \$1,158.95 (\$4.10 per page) to \$1,151.95 (\$4.00 per page). Additionally, the \$87.50 in synchronization costs should also be recoverable. *LG Elecs. U.S.A., Inc. v. Whirlpool Corp.*, No. 08 C 0242, 2011 U.S. Dist. LEXIS 121361, *9 (N.D. Ill. Oct. 20, 2011) ("Costs associated with digitalization and synchronization of videotaped depositions may also be taxed.").

Additionally, trial transcripts are recoverable under Section 1920(2), which authorizes an award of "fees for printed or electronically recorded transcripts necessarily obtained for use in the case." *Allen v. City of Chicago*, No. 10 C 3183, 2016 U.S. Dist. LEXIS 34063, *9 (N.D. Ill. March 16, 2016) *citing Miller v. Vohne Liche Kennels, Inc.*, 600 F. App'x 475, 478 (7th Cir. 2015). Here, obtaining these transcripts were necessary to defend the action and for post-trial briefing.

Conclusion

The items sought by Defendants are correct, were necessarily incurred in the case, and the services were actually and necessarily performed. Defendants respectfully request that the Court tax costs in their favor and against Plaintiff in the amount of \$4,700.69.

Dated: August 30, 2024

Respectfully submitted,

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