

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO.: 11-CV-22026-COOKE/TURNOFF

DR. BERND WOLLSCHLAEGER, *et al.*,

Plaintiffs,

v.

RICK SCOTT, in his official capacity as
Governor of the State of Florida, *et al.*,

Defendants,

OMNIBUS ORDER

THIS CAUSE came before the Court upon Plaintiff's Notice of Plaintiff's Bill of Costs (ECF No. 112), and the parties' Joint Motion for Enlargement of Time and Motion for Stay of Execution of Judgment for Attorney's Fees and Costs (ECF No. 115). The Court has considered the Bill of Costs, the Joint Motion, the applicable law, and is otherwise duly advised in the premises.

Bill of Costs

On July 2, 2012, the Court entered final judgment in favor of Plaintiffs. (ECF No. 106). As the prevailing party, Plaintiffs now seek to recover costs and expenses pursuant to 28 U.S.C. § 1920 and Southern District of Florida Local Rule 7.3(c).

Plaintiff seeks to recover taxable costs in the amount of \$777.88, consisting of \$350.00 in filing fees, \$227.88 in fees for transcripts necessarily obtained for use in the case, and \$200.00 in fees for services of summons, as set forth in its Bill of Costs and supporting documentation. As set

forth in the Notice, Defendants have agreed to all of these costs.

The prevailing party is presumptively entitled to recover costs, but these must be authorized by 28 U.S.C. § 1920¹ and must be reasonably or necessarily incurred for use in the case. Univ. of Miami v. Intuitive Surgical, Inc., No. 04-20409-CV, 2007 WL 781912, at *1 (S.D. Fla. Mar. 13, 2007).

Upon review, the undersigned finds that Plaintiffs request to recover filing fees, fees for transcripts, and fees for services of summons are well-documented and properly recoverable under the statute. As such, the Court grants Plaintiffs' requested taxable costs in the total amount of \$777.88.

¹Section 1920 provides, in part:

A judge or clerk of any court of the United States may tax as costs the following:

- (1) Fees of the clerk and marshal;
- (2) Fees of the court reporter for all or any part of the stenographic transcript necessarily obtained for use in the case;
- (3) Fees and disbursements for printing and witnesses;
- (4) Fees for exemplification and copies of papers necessarily obtained for use in the case;
- (5) Docket fees under section 1923 of this title;
- (6) Compensation of court appointed experts, compensation of interpreters, and salaries, fees, expenses, and costs of special interpretation services under section 1828 of this title.

28 U.S.C. § 1920.

**Joint Motion for Enlargement of Time and
Motion for Stay of Execution of Judgment for Attorney's Fees and Costs**

The Local Rules for the Southern District of Florida provide a framework for bringing fee motions. On July 30, 2012, Defendants filed a Notice of Appeal of the judgment in favor of Plaintiffs. (ECF No. 108). In light of the appeal, the parties jointly seek modification of the time frame provided by the rules.

The parties request until September 21, 2012, to conduct the attorney conference required by Local Rule 7.3(b), and if that fails to settle the matter, until November 30, 2012, to file their fee motion. Plaintiffs further request that they be allowed to supplement any fee motion to seek additional fees and costs depending on the outcome of the appeal. Moreover, Defendants request an unopposed stay of execution of any judgment rendered by the Court for costs or attorney's fees until resolution of the appeal.

Upon due consideration, the undersigned finds that the requested extensions of time are reasonable in light of the circumstances and further finds good cause for a stay of execution of any fees and costs judgment pending the outcome of the appeal. Therefore, the parties' request for extensions of time and a stay of execution of any fees and costs judgment are granted.

Accordingly, it is hereby **ORDERED AND ADJUDGED** that:

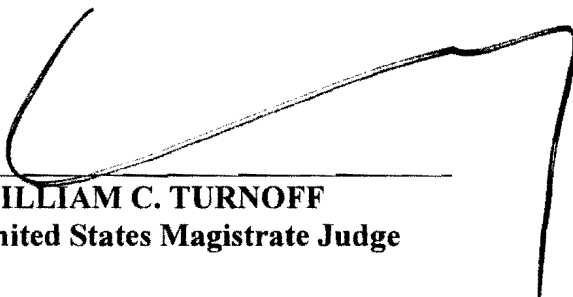
1. The Bill of Costs (ECF No. 112) is **GRANTED**. Plaintiffs are entitled to recover from Defendants the amount of **\$777.88** in taxable costs. However, as set forth *supra*, the execution of this cost judgment is **STAYED** pending resolution of the appeal.
2. The Joint Motion for Enlargement of Time and Motion for Stay of Execution of Judgment for Attorney's Fees and Costs (ECF No. 115) is **GRANTED**. The parties shall have until

September 21, 2012, to conduct the attorney conference. Plaintiffs shall have until November 30, 2012, to file their fee motion.

3. Within fifteen (15) days of the issuance of the mandate by the Court of Appeals, Plaintiffs may submit a supplemental fees and costs motion.

4. The execution of any judgment arising from the instant costs award, as well as any forthcoming fee motion, is **STAYED** pending resolution of the appeal.

DONE AND ORDERED in Chambers at Miami, Florida, this 21 day of August 2012.



WILLIAM C. TURNOFF
United States Magistrate Judge

cc: Hon. Marcia G. Cooke
All Counsel of Record