

Case No. 10-2102

**IN THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT**

JOHN DOE,

Plaintiff-Appellee,

v.

CITY OF ALBUQUERQUE,

Defendant-Appellant.

**On Appeal from the United States District Court
for the District of New Mexico
The Honorable M. Christina Armijo
United States District Judge
Case No. 08-CV-1041 MCA/LFG**

**STIPULATION AS TO
APPELLEE'S MOTION FOR AN ORDER AWARDING APPELLATE
ATTORNEYS' FEES, EXPENSES AND COSTS AND REMANDING TO
THE DISTRICT COURT FOR DETERMINATION**

Before **BRISCOE**, Chief Judge, **EBEL** and **O'BRIEN**, Circuit Judges.

The parties, through undersigned counsel, stipulate that:

1. The Plaintiff-Appellee is a prevailing party on this appeal for purposes of 42 U.S.C. § 1988 and therefore entitled to an award of appellate attorneys' fees, expenses, and costs.

2. This matter should be remanded to the district court to allow it to determine the appropriate amount of Plaintiff-Appellee's appellate attorneys' fees, expenses, and costs, along with its determination of the appropriate amount of Plaintiff-Appellee's attorneys' fees, expenses, and costs incurred during litigation in the district court. *See, e.g., Roth v. Green*, 466 F.3d 1179 (10th Cir. 2006) (remanding to district court for determination of appellate attorneys' fees and costs); *Kansas Reapportionment*, 745 F.2d at 614 (same) (citations omitted).
3. On January 26, 2012, Appellee filed his motion requesting (1) an order from this Court awarding him his reasonable appellate attorneys fees, costs, and expenses; and (2) that, in such an order, this Court remand the determination of such appellate fees, costs, and expenses to the district court. Appellant indicated that it was opposing Appellee's requested relief because it needed more time to consider the issue and its options. On January 27, 2012, this Court ordered Appellant to file a response to Appellee's motion for appellate fees, costs, and expenses by February 10, 2012. Since the filing of these pleadings, Appellee and Appellant have conferred in good faith and reached the above-referenced stipulation, thereby obviating the need for Appellant to file a response.

Respectfully submitted,

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CERTIFICATE OF DIGITAL SUBMISSION

I hereby certify that all required privacy redactions have been made and, with the exception of those redactions, every document submitted in Digital Form or scanned PDF format is an exact copy of the written document filed with the Clerk. I also certify that the digital submissions have been scanned on **February 2, 2012** for viruses with the most recent version of a commercial virus scanning program AVG Anti-Virus Version 9.0.927, and, according to the program, are free of viruses.

/s/ Philip B. Davis
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