

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

DEBORAH D. PATRICK,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION 10-0188-WS-M
)	
BISHOP STATE COMMUNITY COLLEGE, etc., et al.,)	
)	
Defendants.)	

ORDER

This matter is before the Court on the defendants’ motion to re-tax costs. (Doc. 37). The plaintiff declined the opportunity to respond, (Doc. 38), and the motion is ripe for resolution.

The defendants seek taxation of \$1,229.21, all of it incurred in connection with four depositions taken in the case: the plaintiff, two 30(b)(6) representatives, and a witness.

Court reporter fees for “stenographic transcripts” that were “necessarily obtained for use in the case” are properly taxable. 28 U.S.C. § 1920(2). “It is not necessary to use a deposition at trial for it to be taxable, but admission into evidence or use during cross-examination tends to show that it was necessarily obtained.” *United States Equal Employment Opportunity Commission v. W&O, Inc.*, 213 F.3d 600, 621 (11th Cir. 2000). “A district court may tax costs associated with the depositions submitted by the parties in support of their summary judgment motions.” *Id.* (internal quotes omitted). “Taxation of deposition costs of witnesses on the losing party’s witness list is reasonable because the listing of those witnesses indicated both that the [prevailing party] might need the deposition transcripts to cross-examine the witnesses, ... and that the information those people had on the subject matter of this suit was not so irrelevant or so unimportant that

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their depositions were outside the bound of discovery.” *Id.* (internal quotes omitted). Such costs are not taxable if they were not “related to an issue which was present in the case at the time the deposition was taken.” *Id.* (internal quotes omitted). A party may even recover the cost of his own deposition if it was reasonably necessary, such as to allow his counsel to confine impeachment to its proper limits. *Id.* at 622.

Under these principles, the costs associated with all four depositions is properly taxable. The defendants used the plaintiff’s deposition in support of their successful motion for summary judgment, they required a copy of the 30(b)(6) depositions to prepare for trial and confine impeachment, and the plaintiff’s deposition of another employee reflected that the defendants might need that transcript to cross-examine the witness.

Any portion of the cost of a deposition that was incurred “for the convenience of the attorney” rather than being “necessarily obtained for use in the case” is not properly taxable. *Newman v. A. E. Staley Manufacturing Co.*, 648 F.2d 330, 337 (5th Cir. 1981). Likewise, “[c]osts associated with delivering, shipping, or handling transcripts are ordinary business expenses and are not recoverable.” *Kerns v. Pro-Foam, Inc.*, 2007 WL 2710372 at *3 (S.D. Ala. 2007) (internal quotes omitted). The defendants are thus not entitled to recover the \$40.00 charge for delivery, condensed transcript, index and e-tran.

For the reasons set forth above, the defendants’ motion to re-tax costs is **granted in part**. The defendants are awarded costs of \$1,189.21. In all other respects, the defendants’ motion is **denied**.

DONE and ORDERED this 15th day of July, 2011.

s/ WILLIAM H. STEELE
CHIEF UNITED STATES DISTRICT JUDGE