

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

RICHARD S. MILBAUER,

Plaintiff,

v.

Case No: 2:11-cv-149-FtM-38DNF

UNITED STATES OF AMERICA,

Defendant.

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**ORDER**

This matter comes before the Court on Defendant's Request to Tax Costs as the prevailing party (Doc. #68) filed on September 20, 2013. Also before the Court is Plaintiff *pro se* Richard S. Milbauer's Motion to Stay Pending Appeal, filed on October 10, 2013, which requests that the Court stay consideration of the Request to Tax Costs pending the outcome of Plaintiff's appeal of this Court's Order dismissing this case for lack of subject matter jurisdiction to the Eleventh Circuit Court of Appeals.


As Plaintiff's appeal could affect whether Defendant is a prevailing party in this matter, the Court will deny Defendant's request for costs at this time without prejudice, to be refiled by the Defendant, if appropriate, at the conclusion of Plaintiff's appeal.

Accordingly, it is now

**ORDERED:**

- (1) Defendant's Request to Tax Costs (Doc. #68) is **DENIED without prejudice**.
- (2) Plaintiff's Motion to Stay Pending Appeal (Doc. #71) is **GRANTED** to the extent that the Court will deny Defendant's Request to Tax Costs at this time.

**DONE** and **ORDERED** in Fort Myers, Florida this 6th day of November, 2013.

  
**SHERI POLSTER CHAPPELL**  
**UNITED STATES DISTRICT JUDGE**

Copies:

All Parties of Record

Richard S. Milbauer