

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

**BOBBY WALKER, JR. ,**

**Plaintiff,**

v.

**Case No: 8:15-cv-2246-T-27TGW**

**INDIAN RIVER TRANSPORT CO.,**

**Defendant.**

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**ORDER**

**BEFORE THE COURT** are the Report and Recommendation of the Magistrate Judge recommending that Defendant's Motion to Tax Costs be granted and that the Clerk be directed to tax costs against Plaintiff in the amount of \$6,361.15. (Dkt. 44). Plaintiff did not respond to Defendant's Motion to Tax Costs, but has now filed a Motion to Stay Consideration of Defendant's Motion to Tax Costs and/or Stay Taxation of Costs and Objections to Report and Recommendation. (Dkt. 45). Upon consideration, the Report and Recommendation is adopted, Defendant's Motion to Tax Costs is granted, and Plaintiff's Motion to Stay Consideration of Defendant's Motion to Tax Costs and/or Stay Taxation of Costs is denied.

Plaintiff waived his right to object to Defendant's costs by failing to respond to Defendant's motion. *See Jones v. Bank of Am., N.A.*, 564 F. App'x 432, 434 (11th Cir. 2014) ("A party's failure to respond to any portion or claim in a motion indicates such portion, claim or defense is unopposed.") (citation and quotation omitted). As such, the Court declines to consider Plaintiff's

belated objections, with one exception.<sup>1</sup> *See Corwin v. Walt Disney Co.*, 475 F.3d 1239, 1255 (11th Cir. 2007) (“Because the objection [to the Clerk’s taxation of costs] was untimely, the district court did not abuse its discretion in failing to address the objection on the merits.”). As Defendant acknowledges, the costs associated with the video taping of Todd Godwin’s deposition (\$400.00) arguably are not recoverable because the video was duplicative of the stenographic transcript and was not used in support of its motion for summary judgment. (*See* Dkt. 52 at 2 n.1). As such, they will not be taxed.

Plaintiff’s request to stay taxation of costs is also denied. Plaintiff has produced no evidence of his alleged inability to pay costs. Notwithstanding, taxing costs against Plaintiff would cause no irreparable harm since he could recover those costs following a successful appeal. *See Sampson v. Murray*, 415 U.S. 61, 90, 94 S.Ct. 937, 39 L.Ed.2d 166 (1974) (“Mere injuries, however substantial, in terms of money, time and energy necessarily expended in the absence of a stay, are not enough. The possibility that adequate compensatory or other corrective relief will be available at a later date, in the ordinary course of litigation, weighs heavily against a claim of irreparable harm.” (internal quotation marks omitted)). And given that the Magistrate Judge has already issued a Report and Recommendation, Plaintiff’s argument regarding conservation of judicial resources is inapposite.

Accordingly,

1. Plaintiff’s Objections are **OVERRULED**. The Report and Recommendation (Dkt. 44) is **APPROVED** and **ADOPTED** as the opinion of the Court for all purposes, including for appellate review.

2. Defendant’s Motion to Tax Costs (Dkt. 43) is **GRANTED**;

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<sup>1</sup> Plaintiff provides no explanation as to why he failed to timely object.

3. Plaintiff's Motion to Stay Consideration of Defendant's Motion to Tax Costs and/or Stay Taxation of Costs (Dkt. 45) is **DENIED**; and

4. The Clerk is directed to tax costs in the amount of \$5,961.15 in favor of Defendant and against Plaintiff.

**DONE AND ORDERED** this 10<sup>th</sup> day of April, 2017.

  
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**JAMES D. WHITTEMORE**  
**United States District Judge**

Copies to: Counsel of Record