

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

RALPH REGINALD CAIN,

Plaintiff,

v.

CASE NO. 4:13-cv-77-MW/CAS

**SHELL OIL CO. and
CIRCLE K STORES, INC.,**

Defendants.

**ORDER ON DEFENDANT SHELL OIL CO.'S
MOTION TO TAX FEES AND COSTS**

This Court has considered, without hearing and prior to the time for Plaintiff's response, Shell Oil Co.'s motion to tax fees and costs, ECF No. 80, filed on January 24, 2014. The motion was filed prematurely and is accordingly DENIED without prejudice to be refiled at the appropriate time.

Motions for fees and costs under both Federal and Florida law must be preceded by the entry of judgment. *See* Fed. R. Civ. P. 54(d); Fla. Stat. § 768.79(6). While this Court granted summary judgment in favor of Shell, ECF No. 67, it expressly stated in the order that it was not directing the entry of judgment, and no judgment has been entered. Absent entry of judgment, Shell is technically still a party to the case, and the time for filing this motion has not yet been triggered. *See* Fed. R. Civ. P. 54(b) (“[W]hen multiple parties are involved,

the court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines that there is no just reason for delay. Otherwise, *any order . . . that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties* and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities.” (emphasis added)).

For these reasons,

IT IS ORDERED:

Shell's motion to tax fees and costs is **DENIED without prejudice** to be refiled at the appropriate time.

SO ORDERED on January 29, 2014.

s/Mark E. Walker
United States District Judge