

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
KEY WEST DIVISION**

CASE NO. 08-10109-CIV-KING/BANDSTRA

SULEYMAN UNUVAR,

Plaintiff,

v.

THE CITY OF KEY WEST, FLORIDA,
a municipal corporation,

Defendant.

ORDER AFFIRMING REPORT AND RECOMMENDATION

THIS CAUSE comes before the Court upon the January 8, 2010 Report and Recommendation (“R&R”) of Magistrate Judge Ted E. Bandstra, recommending that Defendant’s Verified Motion to Tax Fees (D.E. #41) be DENIED and that Defendant’s Verified Motion to Tax Costs (D.E. #42) be GRANTED IN PART. (D.E. #51.)

Defendant seeks attorney’s fees pursuant to 42 U.S.C. §1988. Judge Bandstra recommends that Defendant’s request for attorney’s fees be denied. Although Plaintiff did not ultimately prevail, Judge Bandstra finds that the claims presented were not frivolous, groundless, or without any foundation. Judge Bandstra explains that the Court’s ultimate dismissal of Plaintiff’s claims does not in and of itself establish that Plaintiff’s claims were completely groundless. Furthermore, Defendant has failed to establish that the action was frivolous.

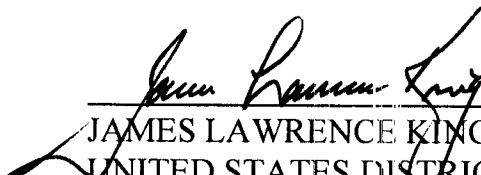
Defendant also seeks costs in the modified amount of \$3,930.32 to reimburse

expenses paid for filing fees, service fees and court reporter services associated with obtaining the transcripts of depositions of witnesses in this case. All the costs that Defendant seeks are authorized by 28 U.S.C. § 1920. Judge Bandstra finds that all costs requested by Defendant are reasonable, necessary, and recoverable.

After a thorough review of the record, the Court concludes that the R&R contains well-reasoned recommendations. Accordingly, the Court being otherwise fully advised, it is **ORDERED, ADJUDGED and DECREED** as follows:

1. Magistrate Judge Ted E. Bandstra's January 8, 2010 Report and Recommendation (**D.E. #51**) be, and the same is, hereby **AFFIRMED and ADOPTED**.
2. Defendant's Verified Motion to Tax Fees (**D.E. #41**) be, and the same is hereby, **DENIED**.
3. Defendant's Verified Motion to Tax Costs (**D.E. #42**) be, and the same is hereby, **GRANTED IN PART** in the amount of **\$3,930.32** as reasonable, statutorily permissible costs incurred in this litigation.

DONE and ORDERED in chambers at the James Lawrence King Federal Justice Building and United States Courthouse, Miami, Florida, this 10th day of February, 2010.



JAMES LAWRENCE KING
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF FLORIDA

cc: **Magistrate Judge Ted E. Bandstra**

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