

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

TOSHIANO ISHII, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	CAUSE NO. 1:09-cv-1509-WTL-DML
)	
MARION COUNTY SUPERIOR COURT NO. 13, et al.,)	
)	
Defendants.)	

ENTRY REGARDING BILL OF COSTS

After the Defendants properly removed this case from state court based upon the fact that the Plaintiffs’ complaint contained federal claims, the Plaintiffs voluntarily dismissed all of their federal claims and the Court relinquished jurisdiction over the Plaintiffs’ supplemental state law claims and remanded the case to the Marion County Superior Court. The Defendants promptly filed a bill of costs seeking the \$350.00 filing fee they paid when they removed the case. The Plaintiffs object to the bill of costs on the ground that the Defendants are not “prevailing parties” and therefore are not entitled to recover costs pursuant to Federal Rule of Civil Procedure 54(d). This argument is without merit. *Gwin v. American River Transp. Co.*, 482 F.3d 969, 974-75 (7th Cir. 2007) (voluntary dismissal renders opposing party a “prevailing party”).

The Plaintiffs also suggest that an award of costs would be inappropriate in this case because they seek only injunctive relief, not damages. The Plaintiffs cite no authority for this argument, and while Rule 54(d) does give the Court some discretion in deciding whether to award costs, the Court sees no reason to deny costs in this case. The Plaintiffs chose to assert federal claims in their complaint and then chose to dismiss those claims; therefore, it was the Plaintiffs’ choices that led to the Defendants to incur the \$350.00 filing fee for naught.

The Defendants' request for costs in the amount of \$350.00 is **GRANTED** and costs are taxed against the Plaintiffs and in favor of the Defendants in the amount of \$350.00.

SO ORDERED: 07/27/2010

A handwritten signature in cursive script, reading "William T. Lawrence", is written over a horizontal line.

Hon. William T. Lawrence, Judge
United States District Court
Southern District of Indiana

Copies to all counsel of record via electronic notification