

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

Albert Snyder,

Plaintiff,

vs.

Case No. 06-cv-1389

Fred W. Phelps, Sr., et al.,

Defendants.

SUPPLEMENT TO:
DEFENDANTS' REPLY TO:
PLAINTIFF'S BRIEF IN OPPOSITION TO
DEFENDANTS' BILL OF COSTS

After the Fourth Circuit's order of October 16, 2009, taxing appeal costs in the amount of \$16,510.80 (Doc. No. 285), on October 30, 2009, defendants filed a Bill of Costs (Doc. No. 287), exhibits in support (Doc. No. 286), and memorandum of law in support (Doc. No. 288). Plaintiff responded in opposition on November 13, 2009 (Doc. No. 289), and defendants filed a reply on November 23, 2009 (Doc. No. 290).

At the time of the reply, plaintiff's objections to appeal costs were pending before the Fourth Circuit Court of Appeals. On March 26, 2010, the Fourth Circuit issued an order denying those objections. **See Attachment A** Plaintiff objected to copies being reimbursed at the rate of \$.50 per page; alleged unnecessary materials were included in the record by defendants; and claimed inability to pay, at the Fourth Circuit. Those objections were denied there, and should likewise be denied here.

Further, Rule 39 of the Federal Rules of Appellate Procedure and the Fourth Circuit's Local Rule, requires that some items be taxed by the Court of Appeals, and then

that those items be added to the costs taxed by the trial court. Now that the Fourth Circuit has denied the objections – so the amount taxed by that Court is final – defendants respectfully request that the Court tax costs as set out in the Bill of Costs filed by defendants herein (see Doc. Nos. 286, 287 and 288).

Further, in defendants’ reply filed November 23, 2009 (Doc. No. 290), defendants noted that plaintiff has published the fact that he had engaged in fundraising for costs related to this litigation. Since the Fourth Circuit’s March 26, 2010, order denying the objections, plaintiff has substantially intensified his fundraising, apparently successfully so (for instance, with Bill O’Reilly of *The Factor* pledging to pay the \$16,510.80 taxed by the Fourth Circuit), and others making donations described as “flowing in.” Thus any lingering question about whether plaintiff is entitled to avoid these costs (which should be taxed as a matter of law), because of inability to pay, should be fully resolved against plaintiff. As defendants pointed out in their reply (supplemented hereby), plaintiff did not establish indigency or inability to pay in his objections. Now he is utterly unable to sustain such a claim. A few samples of the national media coverage of this fundraising and its success are found at **Attachment B**.

WHEREFORE, based upon the content of the Bill of Costs, exhibits, memorandum of law, reply and this supplement, defendants respectfully request that the Court tax costs herein against plaintiff, in the amount of \$96,740.21 (which includes and encompasses the \$16,510.80 taxed by the Fourth Circuit Court of Appeals).

Respectfully submitted,

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Certificate of Service

I certify that the foregoing Supplement to: Defendants' Reply to Plaintiffs' Brief in Opposition to Defendants' Bill of Costs was served by ECF/CM on April 8, 2010, on counsel for plaintiff:

Mr. Sean E. Summers, Esq.
Mr. Craig Tod Trebilcock, Esq.

_____/s/_____

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