

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

VERONICA O'BRIEN,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:10-CV-1094 CDP
)	
ST. LOUIS PUBLIC SCHOOLS)	
DISTRICT, et al.,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

After a jury found in defendants' favor and a final judgment was entered, defendants filed a Motion for Bill of Costs. After receiving no objections, the Clerk of Court taxed those costs against plaintiff Veronica O'Brien on October 1, 2012, in accordance with Local Rule 54-8.03(A). Two days later, O'Brien filed a Motion for Review of and Reduction to Defendants' Bill of Costs, arguing that some of the costs taxed are not permitted under 28 U.S.C. § 1920.

Defendants oppose O'Brien's motion as untimely. Local Rule 54-8.03(A) provides, in relevant part, that:

Each party objecting to a bill of costs shall file, within fourteen (14) days of being served, a memorandum stating specific objections. . . . The Clerk shall tax costs as claimed in the bill if no timely objection is filed.

Defendants argue that any objections filed outside this fourteen-day period are untimely and should not be considered.

O'Brien responds that Fed. R. Civ. P. 54(d)(1) allows a party objecting to a Bill of Costs to do so after costs are taxed. That Rule provides, in relevant part:

The clerk may tax costs on 14 days' notice. On motion served within the next 7 days, the court may review the clerk's action.

I agree that Rule 54(d)(1) gives the court the discretion to review motions filed within seven days of the time the costs are taxed, and so I will consider O'Brien's objections. *See McDowell v. Safeway Stores, Inc.*, 758 F.2d 1293, 1294 (8th Cir. 1985) (acknowledging that a party may make a timely motion for review of an award of costs under Rule 54(d)).

O'Brien argues that the costs of certain transcripts, in addition to costs for a demonstrative exhibit, binders, and exhibit tabs, are not taxable under 28 U.S.C. § 1920. I find that the demonstrative exhibit, as well as the transcripts for the motion hearing and O'Brien's cross-examination, were necessarily obtained for use in the case because of O'Brien's extraordinary credibility issues, and therefore are appropriately taxed under 28 U.S.C. § 1920. *McDowell*, 758 F.2d at 1294 (costs of transcripts necessary for use are taxable); *Cefalu v. Village of Elk Grove*, 211 F.3d 416, 428–29 (7th Cir. 2000) (fees for necessary exemplification are taxable). But I also find that the transcript of the pre-trial conference, at which O'Brien did not testify, was not necessary in this case and was, at most, obtained

for defendants' convenience. *McDowell*, 758 F.2d at 1294. In addition, binders and exhibit tabs are not a taxable cost under 28 U.S.C. § 1920. I will therefore disallow the claim of \$431.65 for the pre-trial conference transcript and the claim of \$26.90 for the binders and exhibit tabs, and will otherwise deny the motion.

Based on the foregoing,

IT IS HEREBY ORDERED that Plaintiff's Motion for Review of and Reduction to Defendants' Bill of Costs [#143] is **GRANTED IN PART** as set out above.

IT IS FURTHER ORDERED that Plaintiff's Motion to File Out of Time, If Necessary [#145] is **DENIED** as moot.

IT IS FINALLY ORDERED that the Clerk of Court shall tax the following costs in favor of St. Louis Public Schools District, et al., and against Veronica O'Brien:

Fees of the Clerk	\$350.00
Fees for transcripts necessarily obtained	\$3738.45
Witness fees	\$15.00
Fees for exemplification and copies	\$175.87
TOTAL TAXABLE COSTS	\$4279.32



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 11th day of October, 2012.