

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:10-CV-412-F

NARENDRA MAVILLA and)
PADMAVATHI MAVILLA,)
)
Plaintiffs,)
)
v.)
)
ABSOLUTE COLLECTION SERVICE,)
INC.,)
)
Defendant.)

ORDER ON BILL OF COSTS

This matter is before the undersigned on the amended bill of costs [D.E. 96] filed by Absolute Collection Service, Inc. (“defendant”). Narendra Mavilla and Padmavathi Mavilla (“plaintiffs”) responded in opposition [D.E. 97]. The time for filing a reply has passed, and defendant has not done so. The matter is therefore ripe for determination.

BACKGROUND

On January 10, 2013, the court granted defendant’s motion for summary judgment and denied plaintiffs’ motion for partial summary judgment [D.E. 82], and entered judgment in favor of defendant [D.E. 83]. On February 6, 2013, plaintiffs filed a notice of appeal [D.E. 84]. On September 10, 2013, the Fourth Circuit Court of Appeals affirmed the decision of the district court [D.E. 87], and issued the mandate on October 16, 2013 [D.E. 91]. On October 30, 2013, defendant filed an application to recover costs in the amount of \$3,795.99 [D.E. 92]. Defendant sought costs under Rule 54(d)(1) of the Federal Rules of Civil Procedure and Local Civil Rule 54.1 as the prevailing party in this action. Plaintiffs objected [D.E. 93], arguing that defendant’s bill of costs was filed untimely or, alternatively, that an award of costs to defendant was manifestly unjust.

In an order issued on September 23, 2014 [D.E. 95], the undersigned granted plaintiffs' objection that defendant's application was untimely filed as to the district court costs. Defendant, however, timely filed its bill of costs to the extent it sought costs under Federal Rule of Appellate Procedure 39(e). Because the bill of costs failed to show sufficient information that defendant incurred any costs under that rule, the undersigned allowed defendant to "file a properly supported supplemental request for costs under Fed. R. App. P. 39(e) within 14 days." Order on Bill of Costs [D.E. 95] at 4. The undersigned further stated: "All other costs are waived under Local Civil Rule 54.1(a)(3) and Fed. R. App. P. 39(d)."

DISCUSSION

Under Federal Rule of Appellate Procedure 39(e), the district court may award "(1) the costs for the preparation and transmission of the record; (2) the reporter's transcript, if needed to determine the appeal; (3) premiums paid for a supersedeas bond or other bond to preserve rights pending appeal; and (4) the fee for filing the notice of appeal." Fed. R. App. P. 39(e)(1)-(4). As plaintiffs correctly observe, none of the costs listed by defendant in the supplemental request [D.E. 96] are recoverable under Rule 39(e). Plaintiffs' objection is granted. Defendant's request for costs under Fed. R. App. P. 39(e) is disallowed.

CONCLUSION

In summary, defendant's supplemental bill of costs [D.E. 96] is disallowed.

SO ORDERED. This the 17 day of September, 2015.

/s/Julie Richards Johnston

Julie Richards Johnston, Clerk of Court