

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

**RAYMOND G. CHAPMAN, and on behalf)
of, and as next friend of his minor child,)
KCC)**

Plaintiff,)

v.)

Case No. 08-CV-0497-CVE-PJC

**MARK BARCUS, JODI JOHNSON BAKER,)
KEVIN GASSAWAY, ROSEMARIE L.)
DAMILAO,)**

Defendants.)

OPINION AND ORDER

The Court is in receipt of the mandate in Tenth Circuit Appeal No. 09-5085 in this matter (Dkt. # 59). The Tenth Circuit reversed and remanded with instructions for the Court to “stay Chapman’s claims for damages, dismiss without prejudice his remaining claims, and vacate the award of attorneys’ fees.” Dkt. # 58, at 8.

On May 27, 2010 the Court entered an Order (Dkt. # 60) vacating the Judgment of Dismissal (Dkt. # 26) of Chapman’s claims, dismissing without prejudice all of Chapman’s claims other than his claims for damages under federal law, vacating the Judgment as to Attorney Fees (Dkt. # 38), and directing the parties to file status reports advising the Court as to the status of the state court custody matter.

In an Order and Judgment dated April 13, 2010 (Dkt. # 58), the Tenth Circuit directed the Court to stay Chapman’s damages claims because the doctrine of Younger abstention requires a stay while the state custody matter is ongoing. Dkt. # 58 at 6; see also Younger v. Harris, 401 U.S. 37

(1971). Chapman's status report (Dkt. # 61, at 1-3) and the docket sheet from the Oklahoma Supreme Court (Dkt. # 61, at 3-9) show that the state custody matter was fully concluded on March 25, 2010. Dkt. # 61, at 9. Thus, there is no basis for Younger abstention at this time. The Court has reviewed its Opinion and Order (Dkt. # 25) in which Chapman's complaint was dismissed for failure to state a claim upon which relief may be granted, and finds that the portion dismissing Chapman's federal law damages claims should be reinstated.

IT IS THEREFORE ORDERED that the portion of the Court's Opinion and Order (Dkt. # 25) dismissing Chapman's claims for damages under federal law is **reinstated**. A separate judgment shall be entered herewith.

IT IS FURTHER ORDERED defendants Baker and Gassaway's (Dkt. # 27) and defendant Damilao's (Dkt. # 30) motions for attorney fees and the Magistrate Judge's Report and Recommendation regarding attorney fees (Dkt. # 36) are **moot**.

DATED this 3rd day of June, 2010.



CLAIRE V. EAGAN, CHIEF JUDGE
UNITED STATES DISTRICT COURT