

# UNITED STATES DISTRICT COURT

for the

\_\_\_\_\_ District of \_\_\_\_\_

v.

)  
)  
)  
)  
)

Case No.: \_\_\_\_\_

## BILL OF COSTS

Judgment having been entered in the above entitled action on \_\_\_\_\_ against \_\_\_\_\_,   
 *Date* the Clerk is requested to tax the following as costs:

Fees of the Clerk .....	\$ _____
Fees for service of summons and subpoena .....	_____
Fees for printed or electronically recorded transcripts necessarily obtained for use in the case .....	_____
Fees and disbursements for printing .....	_____
Fees for witnesses ( <i>itemize on page two</i> ) .....	_____
Fees for exemplification and the costs of making copies of any materials where the copies are necessarily obtained for use in the case. ....	_____
Docket fees under 28 U.S.C. 1923 .....	_____
Costs as shown on Mandate of Court of Appeals .....	_____
Compensation of court-appointed experts .....	_____
Compensation of interpreters and costs of special interpretation services under 28 U.S.C. 1828 .....	_____
Other costs ( <i>please itemize</i> ) .....	_____
<b>TOTAL</b>	<b>\$ _____</b>

*SPECIAL NOTE:* Attach to your bill an itemization and documentation for requested costs in all categories.

### Declaration

I declare under penalty of perjury that the foregoing costs are correct and were necessarily incurred in this action and that the services for which fees have been charged were actually and necessarily performed. A copy of this bill has been served on all parties in the following manner:

Electronic service  First class mail, postage prepaid

Other: \_\_\_\_\_

s/ Attorney: \_\_\_\_\_

Name of Attorney: \_\_\_\_\_

For: \_\_\_\_\_ Date: \_\_\_\_\_

*Name of Claiming Party*

### Taxation of Costs

Costs are taxed in the amount of \_\_\_\_\_ and included in the judgment.

\_\_\_\_\_  
*Clerk of Court*

By: \_\_\_\_\_  
*Deputy Clerk*

\_\_\_\_\_  
*Date*

## UNITED STATES DISTRICT COURT

### Witness Fees (computation, cf. 28 U.S.C. 1821 for statutory fees)

NAME , CITY AND STATE OF RESIDENCE	ATTENDANCE		SUBSISTENCE		MILEAGE		Total Cost Each Witness
	Days	Total Cost	Days	Total Cost	Miles	Total Cost	
					<b>TOTAL</b>		

#### NOTICE

**Section 1924, Title 28, U.S. Code (effective September 1, 1948) provides:**

“Sec. 1924. Verification of bill of costs.”

“Before any bill of costs is taxed, the party claiming any item of cost or disbursement shall attach thereto an affidavit, made by himself or by his duly authorized attorney or agent having knowledge of the facts, that such item is correct and has been necessarily incurred in the case and that the services for which fees have been charged were actually and necessarily performed.”

**See also Section 1920 of Title 28, which reads in part as follows:**

“A bill of costs shall be filed in the case and, upon allowance, included in the judgment or decree.”

**The Federal Rules of Civil Procedure contain the following provisions:**

**RULE 54(d)(1)**

Costs Other than Attorneys’ Fees.

Unless a federal statute, these rules, or a court order provides otherwise, costs — other than attorney’s fees — should be allowed to the prevailing party. But costs against the United States, its officers, and its agencies may be imposed only to the extent allowed by law. The clerk may tax costs on 14 day’s notice. On motion served within the next 7 days, the court may review the clerk’s action.

**RULE 6**

(d) Additional Time After Certain Kinds of Service.

When a party may or must act within a specified time after service and service is made under Rule5(b)(2)(C), (D), (E), or (F), 3 days are added after the period would otherwise expire under Rule 6(a).

**RULE 58(e)**

Cost or Fee Awards:

Ordinarily, the entry of judgment may not be delayed, nor the time for appeal extended, in order to tax costs or award fees. But if a timely motion for attorney’s fees is made under Rule 54(d)(2), the court may act before a notice of appeal has been filed and become effective to order that the motion have the same effect under Federal Rule of Appellate Procedure 4(a)(4) as a timely motion under Rule 59.

**EXHIBIT 1****ADDENDUM TO DR. TUDOR'S BILL OF COSTS**

Dr. Tudor subpoenaed more witnesses for trial than there are spaces on form A0 133. She thus noted that there was an additional cost of \$633.33 on that form and submits this addendum in support thereof.

Name, City, and State of Residence	Attendance	Subsistence	Millage	Total
Dr. Dan Althoff (Durant, OK)	1 day (\$40)	NA	294 (\$157.29)	\$197.29
Dr. Randy Prus (Durant, OK)	1 day (\$40)	NA	294 (\$157.29)	\$197.29
Dr. William Fridley (Durant, OK)	1 day (\$40)	NA	294 (\$157.29)	\$197.29
Judge Richard Ogden (OKC, OK)	1 day (\$40)	NA	3 (\$1.61)	\$41.61

Total: \$633.33

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

DR. RACHEL TUDOR,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 5:15-CV-00324-C
	)	
SOUTHEASTERN OKLAHOMA	)	
STATE UNIVERSITY,	)	
	)	
and	)	
	)	
THE REGIONAL UNIVERSITY	)	
SYSTEM OF OKLAHOMA,	)	
	)	
	)	
Defendants.	)	

**AFFIDAVIT OF EZRA YOUNG, ESQ.**  
**IN SUPPORT OF MOTION FOR TAXING OF COSTS**

I hereby swear or affirm that:

1. I am an attorney for Plaintiff Dr. Rachel Tudor in this matter and have personal knowledge of the facts states in this affidavit.
2. Dr. Tudor requests as taxable costs \$16,055.09. The amount of costs is calculated as follows:

<b>Deposition Transcripts (\$615.15)</b>	
Chris Roessler Dep. (8/23/17)	\$149.80
Austin Harmon Dep. (8/23/17)	\$266.80
Charles Babb Dep. (8/24/17)	\$198.55
<b>Printing of Documents (\$3,673.62)</b>	
Binders, marked dividers, and printing of copies of deposition exhibits.	\$155.66

Binding Tudor motion and exhibits in response in opposition to SJ (10/14/17)	\$53.49
Printing of Joint Pretrial Report	\$33.41
Printing of trial exhibits and marked dividers and 1 set of binders for Defendants' courtesy copies	\$2,784.84
Additional binders for Tudor trial exhibits and Court's courtesy copies of the same	\$370.23
Custom self-inking stamps with case number (Defendants demanded courtesy copies be reprinted or individually stamped with case number)	\$68.12
Printing of Tudor motion for reinstatement and supporting exhibits (12/12/17)	\$61.83
Printing of Tudor reply to opposition to reinstatement and supporting exhibits (1/2/18)	\$75.79
Printing of Tudor front pay and reinstatement brief and exhibits (2/28/18)	\$70.25
<b>Court Transcripts (\$8,141.85)</b>	
Docket call hearing (11/1/17)	\$121.00
Voir Dire (11/8/17)	\$186.15
Trial (11/13/17–11/20/17)	\$7,834.70
<b>Service of Subpoenas (\$1,807.40)</b>	
Printing of Subpoenas by process server	\$10.50
Attempted service of trial subpoena to Dr. Charles Weiner	\$139.99
Service of trial subpoena to Dr. Dan Althoff	\$139.99
Service of trial subpoena to Ms. Mindy House	\$139.99
Service of trial subpoena to Judge Richard Ogden	\$139.99
Service of trial subpoena to Dr. James Knapp	\$89.99
Service of trial subpoena to Dr. Mark Spencer	\$89.99
Service of trial subpoena to Dr. Meg Cotter-Lynch	\$89.99
Service of trial subpoena to Dr. John Mischo	\$89.99
Service of trial subpoena to Dr. Randy Prus	\$89.99
Service of trial subpoena to Dr. William Fridley	\$89.99
Re-attempted service of trial subpoena to Dr. Charles Weiner (2 addresses)	\$499.00
Skip tracing on Dr. Charles Weiner and partner to identify proper address for service	\$198.00
<b>Statutory Witness Fees (\$1,817.07)</b>	
Dr. Charles Weiner	\$197.29
Dr. Dan Althoff	\$197.29
Dr. James Knapp	\$197.29
Dr. Mark Spencer	\$197.29
Dr. Meg Cotter-Lynch	\$197.29
Ms. Mindy House	\$197.29

Dr. John Mischo	\$197.29
Dr. Randy Prus	\$197.29
Dr. William Fridley	\$197.29
Judge Richard Ogden	\$41.46

Total: \$16,055.09

**3. Additional information.**

- a. **Deposition transcripts necessary.** Transcripts of the depositions of Mr. Chris Roessler and Mr. Austin Harman were necessary in this case. Both Roessler and Harman were 30(b)(6) designees of Defendants and testified under oath at deposition to critical matters related to key evidence in this case, including authentication of an April 2010 email between high-level administrators at Southeastern which served as a key piece of evidence in Tudor's defense against Defendants' motion for summary judgment and at trial. Though Dr. Tudor's counsel did not ask questions of either Roessler or Harman directly at deposition, Mr. Young did attend those depositions and coordinated efforts and questions with counsel for the Department of Justice so as to make those depositions efficient. Similarly, deposition transcripts from the re-deposition of Mr. Charles Babb was also necessary to the prosecution of this matter. Mr. Babb's deposition served as one piece of evidence in Tudor's opposition to summary judgment and information garnered from that deposition meaningfully informed Tudor's counsel's strategy at trial. If Defendants had called Babb as a witness at trial (he was named as a witness and

Defendants represented that they might call him as a witness), the deposition transcript would have potentially been used to impeach him.

- b. ***Printing.*** Printing of documents for use in depositions, to prepare courtesy copies of lengthy filings for the Court, and of trial exhibits was necessary to the prosecution of this case. As to documents for use in depositions conducted in August 2017—Tudor’s counsel was forced to reprint all exhibits previously entered as exhibits at other depositions because TLDEF did not immediately transfer all hard copy client files, including the deposition binders, to Mr. Young upon change in representation and, after reasonable attempts were made to secure documents from TLDEF proved fruitless, the deposition exhibits had to be reprinted and placed in larger binders. Printing of lengthy court courtesy copies was also necessary to the prosecution of this case as providing such documents to the court is required by the local rules. Finally, printing of courtesy copies of trial exhibits and copies of exhibits Tudor’s counsel used at trial was absolutely necessary to the prosecution of this case. Because Defendants declined to withdraw unviable defenses and would not apprise Tudor’s counsel of witnesses they actually planned to call at trial in advance, Tudor was forced to print thousands of pages of exhibits, many hundreds of pages of which were not actually used but which would have been used if Defendants had called witnesses disclosed in the Joint Pretrial Report. Tudor’s counsel attempted to

defray costs by requesting Defendants accept electronic copies of exhibits in lieu of printed copies—but Defendants demanded printed copies. Additionally, after Tudor’s counsel had already paid for and exhibits were professionally printed (due to the high volume of pages traditional in-house printing was impossible) and delivered to Defendants, Defendants demanded that Tudor’s counsel provide them with another set of exhibits wherein each page was marked with the case number. Even though Tudor’s counsel explained to Defendants that a printer error occurred and that was the cause of the missing case number, Defendants demanded they be provided with a totally new set of exhibits marked with the case number. Indeed, Defendants represented to Tudor’s counsel that if they were not provided with new exhibits they would stonewall any attempts to admit Tudor’s exhibits at trial. Because rush reprinting of a new set of exhibits would be costly, Tudor’s counsel purchased custom stamps with the case number on it and hand stamped each and every page of a backup set of exhibits acquired by Tudor’s trial team in case of an emergency, placed those new exhibits in binders, and provided that new set of exhibits to Defendants. The cost for the custom stamp was thus both forced by Defendants and necessary to the prosecution of this case.

- c. ***Court transcripts.*** Transcripts of the docket call hearing (11/1/17), voir dire (11/8/17), and trial (11/13/17–11/20/17) were also necessarily

obtained in this case and ultimately utilized by both counsel and the Court. As to the 11/1/17 hearing, critical motions were decided at that hearing and Tudor's counsel relied upon that transcript and other instructions regarding trial to prepare for the same. As to voir dire, the that transcript substantially aided Tudor's counsel in preparation for trial insofar as jurors actual responses to substantive questions that lent insights to their familiarity with key issues and concepts in the case and helped guide counsel prepare opening and closing statements, fine-tune direct and cross examinations of key witnesses. As to the trial transcripts, they were absolutely necessary and actually relied upon by both the Court and counsel for all parties. For example, during the course of trial Tudor's counsel relied upon the transcripts to ensure that appropriate evidence supporting Tudor's claims had been introduced, witnesses actually hit their target issues, and otherwise assisted counsel's analysis and adjustment of strategy as issues surfaced at trial. Post-trial, the trial transcripts were also utilized in post-trial motions related to reinstatement and front pay.

- d. ***Service of subpoenas, witness fees, and millage.*** Tudor arranged for service of trial subpoenas on 10 witnesses, 6 of whom testified in Tudor's case in chief and 1 of whom testified as a rebuttal witness at trial. All witnesses whom testified at trial were absolutely necessary to the successful prosecution of Tudor's case. Because those witnesses were

entitled to service of a subpoena, witness fees, and millage those costs were necessarily incurred. As to Dan Althoff and William Fridley, both of whom appeared at Court but did not ultimately testify—Althoff and Fridley were subpoenaed as potential rebuttal witnesses in this case. Because Defendants refused to disclose the witnesses they would actually call at trial, Tudor’s counsel were forced to identify rebuttal witnesses that could testify to myriad issues blindly—Althoff and Fridley fit that need. Though Althoff and Fridley appeared in the courthouse on the designated days, Defendants actual choice of witnesses at trial that day did not necessitate their testimony. However, because it was probable that Althoff and/or Fridley would be needed, costs incurred in securing their attendance were necessary. As to Judge Ogden, whom also did not appear at trial—the costs incurred with subpoenaing him were absolutely necessary and the fact that he could not attend trial due to an apparent scheduling issue was not known to Tudor’s counsel prior to Defendants’ counsel’s revelation of the same mid-trial. Indeed, on a call between the undersigned and Defendants’ counsel on October 31, 2017, Defendants counsel had advised that all witnesses named in the Joint Pretrial Report (on which Judge Ogden was named) were, to their knowledge, available to testify at trial. Though Judge Ogden was ultimately unable to testify, proper service

and statutory fees paid to him were necessary to the ultimate prosecution of this case.

4. The costs included in the Bill of Costs are allowed by law, are correctly stated, and were necessarily incurred in the case and the services for which fees have been charged were actually and necessarily performed.
5. I make this Affidavit in support of Tudor's Motion for Taxing of Costs.

  
Ezra Young, Esq.

SUBSCRIBED AND SWORN TO before me this 20<sup>th</sup> day of June, 2018.

  
**NADIL R. RAMUSEVIC**  
Notary Public, State of New York  
No. 01RA6019423  
Qualified in Queens County  
Commission Expires March 22, 2019

Notary

My Commission Expires: March 22nd, 2019