

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

RACHEL TUDOR,

Plaintiff,

v.

SOUTHEASTERN OKLAHOMA STATE
UNIVERSITY, and THE REGIONAL
UNIVERSITY SYSTEM OF
OKLAHOMA,

Defendants.

Case No. 15-cv-324-C

DEFENDANTS' OBJECTION TO EZRA YOUNG'S BILL OF COSTS

Defendants Southeastern Oklahoma State University ("SEOSU") and The Regional University System of Oklahoma ("RUSO") object to the Bill of Costs filed by Ezra Young, former counsel for Plaintiff. [Doc. 361]. Mr. Young has filed a Bill of Costs pursuant to Fed. R. Civ. P. 54 and Local Rule 54.1 "as former counsel for Dr. Tudor," and improperly contends costs are awardable to him.

Rule 54(d) of the Federal Rules of Civil Procedure specifies that "costs other than attorneys' fees shall be allowed as of course to the prevailing party unless the court otherwise directs." Fed. R. Civ. P. 54(d)(1). "Prevailing party" refers to the party, not the attorney." *Weeks v. Independent School Dist. No. I-89 of Ok Co, OK*, 230 F.3d 1201, 1213 (10th Cir. 2000) (citing *Venegas v. Mitchell*, 495 U.S. 82, 87 (1990)); *Howard v. Mail-Well Envelope Co.*, 150 F.3d 1227, 1230 (10th Cir.1998).

Plaintiff's former counsel has never been a party in this case. Nor does Mr. Young indicate that this Bill of Costs was filed with approval or even the knowledge of Plaintiff or Plaintiff's current counsel. Although Mr. Young declares in the Bill of Costs declaration that he is the attorney, and Dr. Rachel Tudor is the claiming party, it is apparent throughout his affidavit and brief in support of Bill of Costs that Mr. Young is personally seeking these costs, instead of seeking them on behalf of Plaintiff. He incorrectly asserts that the Clerk of Court previously awarded his firm taxable costs, and that he is now seeking additional taxable costs. But these costs were awarded to Dr. Tudor, and included in the judgment. [Doc. 339].

Further, Mr. Young overstates a prior order from this Court, claiming that “[t]his Court previously granted me and Ms. Brittany Novotny permission to participate in proceedings pertaining to attorneys’ fees and costs in light of our respective attorneys’ liens in this matter. See Order, ECF No. 352.” However, the referenced Court Order [Doc. 352], does not actually address costs:

In light of the attorneys’ lien filed by Mr. Young and Ms. Novotny, they will be permitted to participate in any future proceedings pertaining to attorneys’ fees.

Moreover, even if costs had been included in this sentence, being “permitted to participate” is not the same thing as being automatically awarded costs on behalf of the party no longer represented.

In short, Mr. Young’s Bill of Costs is invalid because Mr. Young is not the proper person or entity to seek such costs, the proper party has apparently not been consulted in the matter, and this Court’s prior order does not dictate otherwise. Therefore, Defendants request that this Court deny Mr. Young’s Bill of Costs.

Respectfully submitted,

/s/ Dixie L. Coffey

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CERTIFICATE OF SERVICE

I certify that on this 18th day of October 2021, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing; I further certify that a true and correct copy of the foregoing document was sent via the ECF System to all counsel who are registered participants.

/s/Dixie L. Coffey

Dixie L. Coffey