

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	
							\$0.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00
						TOTAL	\$0.00

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.

From: notification@pay.gov
To: [Horatio Mihet](#)
Subject: Pay.gov Payment Confirmation: FLSD CM ECF
Date: Wednesday, June 13, 2018 5:04:37 PM

Your payment has been submitted to Pay.gov and the details are below. If you have any questions or you wish to cancel this payment, please contact Financial Section at (305) 523-5050.

Application Name: FLSD CM ECF
Pay.gov Tracking ID: 26AA01SM
Agency Tracking ID: 113C-10733447
Transaction Type: Sale
Transaction Date: Jun 13, 2018 5:04:32 PM

Account Holder Name: Horatio Mihet
Transaction Amount: \$400.00
Card Type: AmericanExpress
Card Number: *****6002

THIS IS AN AUTOMATED MESSAGE. PLEASE DO NOT REPLY.

Case Filing Fee

Pay.gov Payment Confirmation: FLSD CM ECF

notification@pay.gov <notification@pay.gov>

Wed 2/13/2019 5:20 PM

To: Liberty Counsel Court <court@lc.org>; Roger Gannam <rgannam@lc.org>

Your payment has been submitted to Pay.gov and the details are below. If you have any questions or you wish to cancel this payment, please contact Financial Section at (305) 523-5050.

Application Name: FLSD CM ECF

Pay.gov Tracking ID: 26FDD711

Agency Tracking ID: 113C-11393749

Transaction Type: Sale

Transaction Date: Feb 13, 2019 5:20:42 PM

Account Holder Name: Roger Gannam

Transaction Amount: \$505.00

Card Type: Visa

Card Number: *****9771

THIS IS AN AUTOMATED MESSAGE. PLEASE DO NOT REPLY.

Appeal Filing Fee

Veritext Corp
Mid-Atlantic Region 586

1801 Market St., Suite 1800
 Philadelphia PA 19103
 Tel. 888-777-6690 Fax. 215-241-1539
 Fed. Tax ID: 20-3132569



Bill To: Jill Schmid
 Liberty Counsel
 1053 Maitland Center Commons Boulevard
 Maitland, FL, 32751

Invoice #: PA3444763
Invoice Date: 8/15/2018
Balance Due: \$1,182.50

Case: Ordinance Of Board Of County Commissioners v.
Job #: 2977099 | Job Date: 7/27/2018 | Delivery: Normal
Billing Atty: Jill Schmid
Location: Audio Transcription
 Washington, DC 20005
Sched Atty: Jill Schmid | Liberty Counsel

Witness	Description	Amount
Regular Meeting 4.A.1 ORDINANCE	Transcript Services	\$543.25
Regular Meeting 4.F.1. ORD 2017-046	Transcript Services	\$611.25
	Delivery and Handling	\$28.00

PAID

Notes:

SEP - 6 2018
 CK# 22472
 AMT 1,182.50

Invoice Total:	\$1,182.50
Payment:	\$0.00
Credit:	\$0.00
Interest:	\$0.00
Balance Due:	\$1,182.50

TERMS: Payable upon receipt. Accounts 30 days past due will bear a finance charge of 1.5% per month. Accounts unpaid after 90 days agree to pay all collection costs, including reasonable attorney's fees. Contact us to correct payment errors. No adjustments will be made after 90 days. For more information on charges related to our services please consult <http://www.veritext.com/services/all-services/services-information>

916 5164 (17-11)

	LIBERTY COUNSEL, INC 407-875-1770 PO BOX 540774 ORLANDO, FL 32854	WELLS FARGO BANK, N.A. WELLS-FARGO.COM	09751011 09/06/18
PAY TO THE ORDER OF	Veritext Mid-Atlantic		\$ 1,182.50
*** One Thousand One Hundred Eighty Two ***** 50/100			DOLLARS
Veritext Mid-Atlantic PO Box 71303 Chicago, IL 60694-1303			
MEMO	Job # 2977099	000 [REDACTED]	

REF#8223718066 CK# 22472 1182.50

CASE LAW REPORTING, INC.
 PROFESSIONAL REPORTERS
 7001 SOUTHWEST 13 STREET
 PEMBROKE PINES, FL 33023
 954-985-8875/954-239-7775 fax
 CASELAWRPTG@GMAIL.COM

Invoice

Number: 18112
 Date: 9/13/2018

Bill To:

LIBERTY COUNSEL
 P.O. Box 540774,
 Jacksonville, FL 32854
 ATTN: R. Gannam, Esq.

PAID
 22494
 84.70

DATE TAKEN	REFERENCE	# PAGES	PRICE	CLIENT %	TOTAL
09/12/18	Robert Otto, Plaintiff v. City of Boca Raton, Defendant				
	Case No.: 18-cv-80771-RLR				
	DAILY expedited EXCERPT transcript of the hearing before Magistrate Judge Bruce Reinhart	14.00	\$6.05		\$84.70
	(inv. sent to R. Gannam 09/13/18 @2:20 p.m.)				

SubTotal	\$84.70
0.00% on \$0.00	\$0.00
0.00% on \$0.00	\$0.00
Total	\$84.70

564
 (17-11)

Payment due upon receipt. Client shall be responsible for all costs of collection and reasonable attorney's fees. Venue shall lie in Broward County, Florida. Interest on past due accounts shall be charged at 1.5% per month.

(NOTE FOR AGENCY: NO WRITEUP, NO % TAKEN)

0 - 30 days	31 - 60 days	61 - 90 days	> 90 days	Total
\$84.70	\$0.00	\$0.00	\$0.00	\$84.70

 LIBERTY COUNSEL, INC 407-875-1776 PO BOX 540774 ORLANDO, FL 32854		WELLS FARGO BANK, N.A. WELLSFARGO.COM 60-751,631 05/13/18	
PAY TO THE ORDER OF Case Law Reporting, Inc		\$ 84.70	
*** Eighty Four ****		*****70/100	
Case Law Reporting, Inc 7001 Southwest 13 Street Pembroke Pines, FL 33023		 <i>Chris Cross</i>	
MEMO Case # 18-cv-80771-RLR			
#000 [REDACTED]			

REF#8622841343 CK# 22494 84.70

EOENSCDGAP 000

INVOICE

Florida Court Reporting
 2161 Palm Beach Lakes Blvd.
 Suite 302
 West Palm Beach FL 33409
 Phone:561-689-0999 Fax:

4/25

Horatio Mihet, Esq.
 Liberty Counsel
 PO Box 540774
 Orlando FL 32854-0774

Invoice No.	Invoice Date	Job No.
176867	9/27/2018	128241
Job Date	Case No.	
9/20/2018	9:18-cv-80771-RLR	
Case Name		
ROBERT W. OTTO, PH.D. vs BOCA RATON & PALM BEACH COUNTY		
Payment Terms		
Due upon receipt		

Original & one certified copy of:

Helene Hvizd

Scanned exhibits (b/w)

291.00	Pages	@	4.20	1,222.20
83.00	Pages	@	0.20	16.60

Original & one certified copy of:

Shayna Ginsburg

Scanned exhibits (b/w)

Attendance (1st hour)

Each additional hour

Attendance (after hours)

PAID

SEP 28 2018

OWP 22541
 AMT 1,975.98

44.00	Pages	@	4.20	184.80
140.00	Pages	@	0.20	28.00
			85.00	85.00
7.00	Hours	@	40.00	280.00
1.25	Hours	@	127.50	159.38

TOTAL DUE >>> \$1,975.98
 AFTER 10/27/2018 PAY \$2,094.54

We appreciate your business!

Past due balance in excess of 30 days shall bear interest at the maximum rate allowable by law. Client agrees to pay all costs of collection, including attorney's fees.

Tax ID: 65-0466508

Phone: 800-671-1776 Fax:407-875-0770

Please detach bottom portion and return with payment.

	LIBERTY COUNSEL, INC 407-895-1776 PO BOX 540774 ORLANDO, FL 32854	WELLS FARGO BANK, N.A. WELLSFARGO.COM	22541 09/28/18
PAY TO THE ORDER OF	Florida Court Reporting		\$ 1,975.98
	*** One Thousand Nine Hundred Seventy Five. ***** 98/100		
	Florida Court Reporting 2161 Palm Beach Lakes Blvd. Suite 302 West Palm Beach, FL 33409		DOLLARS
MEMO	A/P Payment on Account		
	⑈000 [REDACTED]		

REF#8226116578 CK# 22541 1975.98

INVOICE

Florida Court Reporting
 2161 Palm Beach Lakes Blvd.
 Suite 302
 West Palm Beach FL 33409
 Phone:561-689-0999 Fax:

425

Roger K. Gannam, Esq.
 Liberty Counsel
 PO Box 540774
 Orlando FL 32854-0774

Invoice No.	Invoice Date	Job No.
176923	10/3/2018	128242
Job Date	Case No.	
9/21/2018	9:18-cv-80771-RLR	
Case Name		
ROBERT W. OTTO, PH.D. vs BOCA RATON & PALM BEACH COUNTY		
Payment Terms		
Due upon receipt		

Original & one certified copy of:

Michael Wolka

Attendance (1st hour)

Each additional hour

Scanned exhibits (b/w)

191.00	Pages	@	4.20	802.20
			85.00	85.00
5.00	Hours	@	40.00	200.00
25.00	Pages	@	0.20	5.00
TOTAL DUE >>>				\$1,092.20
AFTER 11/2/2018 PAY				\$1,157.73

We appreciate your business!

Past due balance in excess of 30 days shall bear interest at the maximum rate allowable by law. Client agrees to pay all costs of collection, including attorney's fees.

10/25 5164 (11-11)

PAID

OCT 25 2018

CHK# 22609

AMT 1,092.20

Tax ID: 65-0466508

Phone: 800-671-1776 Fax:407-875-0770

Please detach bottom portion and return with payment.

 LIBERTY COUNSEL, INC 407-875-1778 PO. BOX 540774 ORLANDO, FL 32854		WELLS FARGO BANK, N.A. WELLS FARGO 001		22609 02-751/001 10/25/18
PAY TO THE ORDER OF: Florida Court Reporting *** One Thousand Ninety Two ***** 20/100		\$ 1,092.20		DOLLARS
Florida Court Reporting 2161 Palm Beach Lakes Blvd. Suite 302 West Palm Beach, FL 33409				
MEMO Job # 126242 Orto vs Boca Raton & Palm Beach		⑈000 [REDACTED]		

REF#8521375615 CK# 22609 1092.20

October 23, 2018

Horatio G. Mihet, Esq.

Roger K. Gannam, Esq.

Liberty Counsel

IN RE: ROBERT W. OTTO, et al.vs CITY OF BOCA RATON, et al., Case No. 18cv80771-RLR

PRELIMINARY INJUNCTION HEARING BEFORE HON. ROBIN L. ROSENBERG

10/18/2018

TRANSCRIPT, EXPEDITED, 254 PAGES @\$10.17 PER PAGE.....\$2,583.18

TOTAL SPLIT WITH DEFENDANTS

TOTAL DUE UPON RECEIPT OF TRANSCRIPT.....\$ 861.06

(One-third split)

10/26 5164 (17-11)

PLEASE MAKE CHECK OUT AND SEND TO:

Pauline Stipes, Official Reporter *#1706*

2651 SW Buena Vista Dr.

Palm City, FL 34990

(Transcript will not be filed until payment is received.)

THANK YOU,

Pauline Stipes

/s/ Pauline Stipes

PAID

OCT 26 2018

CK# 22627
AMT 861.06

 LIBERTY COUNSEL, INC 407-875-1776 PO BOX 540774 ORLANDO, FL 32854		WELLS FARGO BANK, N.A. WELLSFARGO.COM 03781821 10/26/18	
PAY TO THE ORDER OF: Pauline A. Stipes		\$ 861.06	
*** Eight Hundred Sixty One		*****06/100	
Pauline A. Stipes Official Court Reporter 2651 SW Buena Vista Dr Palm City, FL 34990			
MEMO Transcript - Ono v Boca Raton 10/18/18		*000 [REDACTED]	

207 003963 20988670.1

REF#6041047408 CK# 22627 861.06

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 9:18-CV-80771-ROSENBERG/REINHART

ROBERT W. OTTO, et al.,

Plaintiffs,

v.

CITY OF BOCA RATON, FLA., and
COUNTY OF PALM BEACH, FLA.,

Defendants.

**MEMORANDUM IN SUPPORT OF PLAINTIFFS’
PARTIALLY UNOPPOSED BILL OF COSTS**

Pursuant to 28 U.S.C. § 1920 and L.R. 7.3(c), Plaintiffs Robert Otto and Julie Hamilton respectfully request the Court to enter their Bill of Costs, and to award Plaintiffs the sum of \$6,101.44, jointly and severally against Defendants City of Boca Raton, Florida, and County of Palm Beach, Florida, as and for Plaintiffs’ reasonable taxable costs which Plaintiffs necessarily incurred in this action for services that were actually and necessarily performed.

Plaintiffs seek taxable costs in only two categories, both of which are expressly permitted under 28 U.S.C. § 1920: (a) “fees of the clerk” in the amount of \$905.00 (the filing fee for this action, and the filing fee for Plaintiffs’ successful appeal), 28 U.S.C. § 1920(1); and (b) “fees for printed or electronically recorded transcripts” in the amount of \$5,196.44 (for obtaining various transcripts used by Plaintiffs in this court and in their appeal). 28 U.S.C. § 1920(2).

Pursuant to L.R. 7.3(c), Plaintiffs have included with their proposed Bill of Costs copies of their invoices for each of the costs claimed by Plaintiffs.

Pursuant to L.R. 7.3(c), Plaintiffs have met and conferred with counsel for each Defendant regarding the Bill of Costs. The County has advised Plaintiffs that the County has no objection to the Bill of Costs. The City has advised Plaintiffs that the City has no objection to the specific costs sought by Plaintiffs. Therefore, the type of costs sought by Plaintiffs, and the total amount, is **unopposed**.

The City has advised Plaintiffs that the City does object to entry of the costs jointly and severally against both Defendants, and, specifically, the City objects to “taxation of costs against it for the claims unrelated to the City (*i.e.*, the transcripts for the County deponent and meeting).” Notwithstanding the City’s objection, the costs judgment should be entered jointly and severally against both Defendants. “The default rule is that costs are to be imposed jointly and severally, and the burden is on the party seeking to avoid that to introduce evidence justifying apportionment and persuade the court to do that.” *State Farm Fire & Cas. Co. v. Silver Star Health & Rehab*, 739 F.3d 579, 585–86 (11th Cir. 2013), citing *In re Paoli R.R. Yard PCB Litigation*, 221 F.3d 449, 469 (3d Cir.2000).

Here, although the amount of damages paid by the County and City is slightly different, damages were only a secondary relief sought by Plaintiffs. The primary relief sought and obtained by Plaintiffs was the enjoinder of the City’s and the County’s unconstitutional ordinances (one ordinance each), which was meted out in equal parts against both Defendants.

Moreover, three additional facts demonstrate that the costs the City seeks to apportion are not “unrelated to the City,” and therefore no cost apportionment is warranted or appropriate: a) Plaintiffs asserted **conspiracy** allegations against both Defendants jointly (including that Defendants conspired with each other and with third parties to violate Plaintiffs’ constitutional rights by, among other unlawful conduct, enacting Defendants’ respective ordinances) (*see e.g.*, First Amended Complaint, dkt. 182 ¶¶ 41-53, 345-53); b) each Defendant agreed to pay costs “for **all** of [Plaintiffs’] claims for relief,” necessarily including the conspiracy claim (dkt. 196-1 at 1, 196-2 at 1, 203-1 at 1, 203-2 at 1 (emphasis added)); and (c) this Court entered Final Judgment against both Defendants “on **all** of [Otto’s] and [“Hamilton’s] claims for relief,” necessarily including the conspiracy claim. (Dkt. 211 at 1 (emphasis added)). *See also State Farm Fire & Cas. Co.*, 739 F.3d at 586 (“joint and several imposition of costs was justified because this was, in essence, a conspiracy among the three defendants”) (affirming joint and several liability for taxable costs and denying apportionment).

For these reasons, the Court should award Plaintiffs the full amount of taxable costs they seek (\$6,101.44), which is not opposed by either Defendant, and the Court should impose that award jointly and severally against both the City and the County.

Respectfully submitted,

Dated: May 8, 2023

/s/ Horatio G. Mihet

Mathew D. Staver (FL Bar 0701092)

Horatio G. Mihet (FL Bar 026581)

Roger K. Gannam (FL Bar 240450)

LIBERTY COUNSEL

P.O. Box 540774

Orlando, FL 32854

Phone: (407) 875-1776

Email: court@lc.org

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on May 8, 2023, I caused a true and correct copy of the foregoing to be filed electronically with this Court. Service will be effectuated on all counsel of record via this Court's ECF/electronic notification system.

/s/ Horatio G. Mihet

Horatio G. Mihet

Attorney for Plaintiffs