UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA

Wampole v. Carnival Corporation

Wampole · No. 24-CV-24361-MOORE/Elfenbein · Decided April 30, 2026

SUMMARY

This Report and Recommendation addresses Carnival Corporation's motion to tax costs after summary judgment was entered in its favor in a personal-injury maritime action. The court recommends denying a stay pending appeal and awarding Carnival $7,546.05 in taxable costs, consisting of $1,655.00 in service-of-process costs and $5,891.05 in deposition transcript costs.

CASE DETAILS

COURT	United States District Court for the Southern District of Florida
WRITING FOR THE COURT	Marty Fulgu Elfenbein
JURISDICTION	United States District Court for the Southern District of Florida
DECIDED	April 30, 2026
DOCKET	24-CV-24361-MOORE/Elfenbein
DISPOSITION	other
PROCEDURAL POSTURE	Report and recommendation on Carnival Corporation's motion to tax costs following summary judgment in Carnival's favor while Plaintiff's appeal of the final judgment was pending.
STANDARD OF REVIEW	Whether to stay taxation of costs pending appeal is discretionary. Taxable-cost determinations are governed by Federal Rule of Civil Procedure 54(d)(1) and 28 U.S.C. § 1920; the prevailing party receives a strong presumption in favor of costs, while the requesting party must provide sufficient detail to establish that the costs were incurred and are recoverable.
PRECEDENTIAL VALUE	unpublished
PARTIES	Darlene Wampole v. Carnival Corporation

TOPICS

costs · civil procedure · appellate procedure · standard of review · negligence

PRACTICE AREAS

civil procedure · admiralty · personal injury · remedies

QUESTIONS PRESENTED

1. Whether the pending appeal required or justified staying resolution of Carnival's motion to tax costs.
2. Whether $1,655.00 in private process-server fees for subpoenas was taxable under 28 U.S.C. § 1920(1).
3. Whether the remaining deposition transcript costs were necessarily obtained for use in the case and taxable under 28 U.S.C. § 1920(2).
4. Whether expedited-transcript, condensed-transcript, and DepoSummary Pro charges were taxable convenience items.
5. Whether the corporate-representative deposition invoices provided sufficient detail to support taxation.

HOLDINGS

1. A pending appeal does not automatically deprive the district court of authority to decide a collateral motion to tax costs, and a stay was unwarranted because the motion involved routine costs, the record was complete, and Plaintiff showed neither case-specific prejudice nor a documented inability to pay.
2. Carnival was entitled to recover $1,655.00 in private process-server fees because the requested amounts did not exceed the applicable United States Marshal rate and the subpoenas were reasonably necessary to investigate medical history, causation, and damages placed at issue by Plaintiff.
3. Carnival was entitled to recover $5,891.05 in remaining deposition transcript costs because the transcripts were cited in summary-judgment briefing or were reasonably necessary to defend liability, causation, and damages at trial.
4. Expedited-transcript, condensed-transcript, and DepoSummary Pro charges totaling $1,374.10 were not taxable because Carnival did not show that they were necessarily obtained for use in the case rather than for counsel's convenience.
5. The four corporate-representative deposition charges were taxable because each invoice identified a copy of the transcript, no specific non-taxable charge was identified, and the transcripts were used in summary-judgment briefing.

KEY QUOTATIONS

> *"Federal Rule of Civil Procedure 54(d)(1) provides that "costs — other than attorney's fees — should be allowed to the prevailing party" unless a federal statute, the Federal Rules of Civil Procedure, or a court order otherwise directs."* (Section II.B)

> *"The filing of an appeal does not prevent the Court from deciding a collateral cost motion."* (Section III.A)

> *"Section 1920(2) requires that the deposition have been "necessarily obtained for use in the case;" it does not require that every taxable deposition be cited in a dispositive motion."* (Section III.C)

FACTUAL BACKGROUND

Wampole alleged that she was injured after falling through a closed hatch on an elevated teak deck beside a hot tub aboard the Carnival Conquest. She asserted negligence claims involving Carnival's failure to maintain the deck and hatch safely and placed her medical history, injuries, causation, disability, and lost earnings at issue. Carnival subpoenaed medical providers and related entities and obtained deposition transcripts, including depositions of Wampole, an eyewitness and family member, treating providers, and corporate representatives.

PROCEDURAL HISTORY

Wampole sued Carnival for negligence arising from injuries allegedly sustained when she fell through a closed hatch on the Carnival Conquest. The district court granted Carnival summary judgment for lack of actual or constructive notice and entered final judgment on October 31, 2025. Wampole appealed, and Carnival moved to tax costs. The magistrate judge recommended granting the motion in part and denying it in part, awarding $7,546.05 in taxable costs, subject to review by the district judge after any objections.

DISPOSITION

other

REMAND INSTRUCTIONS

The magistrate judge recommended that the district judge grant the motion in part and deny it in part, award Carnival $1,655.00 in service-of-process costs and $5,891.05 in deposition costs, for a total of $7,546.05, and direct the Clerk to enter a bill of costs. The parties were given fourteen days to file objections; the recommendation was subject to de novo review by the district judge.

CASES CITED

- Landis v. N. Am. Co., 299 U.S. 248, 254-55 (1936)
- Clinton v. Jones, 520 U.S. 681, 706 (1997)
- Rothenberg v. Sec. Mgmt. Co., 677 F.2d 64, 64-65 (11th Cir. 1982)
- Sutton v. Royal Caribbean Cruise Line, No. 16-CV-24707, 2018 WL 4282843, at *2, *6 (S.D. Fla. Sept. 7, 2018)
- Lavora v. NCL (Bahamas) Ltd., No. 15-CV-24285, 2017 WL 5308511, at *2-3 (S.D. Fla. Feb. 24, 2017)
- Grovner v. Ga. Dep't of Nat. Res., No. CV 213-89, 2015 WL 6453163, at *3 (S.D. Ga. Oct. 23, 2015)
- Breedlove v. Hartford Life & Accident Ins. Co., No. 11-CV-991-Orl-28TBS, 2013 WL 361825, at *1-2 (M.D. Fla. Jan. 30, 2013)
- Yale Galanter, P.A. v. Johnson, No. 06-CV-60742, 2008 WL 1766907, at *1 (S.D. Fla. Apr. 14, 2008)
- Chapman v. AI Transp., 229 F.3d 1012, 1039 (11th Cir. 2000) (en banc)
- Cherry v. Champion Int'l Corp., 186 F.3d 442, 448 (4th Cir. 1999)
- Smith v. Southeastern Penn. Transp. Auth., 47 F.3d 97, 100 (3d Cir. 1995)
- Mathews v. Crosby, 480 F.3d 1265, 1276 (11th Cir. 2007)
- Arcadian Fertilizer, L.P. v. MPW Indus. Servs., Inc., 249 F.3d 1293, 1296 (11th Cir. 2001)
- Crawford Fitting Co. v. J.T. Gibbons, Inc., 482 U.S. 437, 441-42 (1987)

- Loranger v. Stierheim, 10 F.3d 776, 784 (11th Cir. 1994)
- EEOC v. W&O, Inc., 213 F.3d 600, 621-24 (11th Cir. 2000)
- Blanco v. Biscayne Wine Grp., LLC, No. 13-CV-21314, 2014 WL 2653922, at *3 (S.D. Fla. June 13, 2014)
- Watson v. Lake Cnty., 492 F. App'x 991, 996-97 (11th Cir. 2012)
- Frasca v. NCL (Bahamas) Ltd., No. 12-CV-20662, 2014 WL 4206697 (S.D. Fla. Aug. 25, 2014)
- Licausi, 2009 WL 3177566, at *3
- Lebron v. Royal Caribbean Cruises Ltd., No. 16-CV-24687-KMW
- Thomas v. Arn, 474 U.S. 140, 149 (1985)
- Henley v. Johnson, 885 F.2d 790, 794 (11th Cir. 1989)

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