

**IN THE CIRCUIT COURT OF THE TWELTH JUDICIAL CIRCUIT  
IN AND FOR SARASOTA COUNTY, FLORIDA  
CIVIL DIVISION**

Michael T. Flynn,  
Plaintiff,

v.

Case No.: 2023 CA 004264 NC

Jim Stewartson,  
Defendant.

\_\_\_\_\_ /

**DEFENDANT’S MOTION FOR TAXATION OF COSTS**

Defendant, JIM STEWARTSON, by and through its undersigned counsel and pursuant to Fla. Stat. § 57.041, hereby moves this Court for the taxation of costs against Plaintiff, MICHAEL T. FLYNN, and in support thereof states as follows:

1. On March 11, 2026, after nearly three years of litigation, Plaintiff voluntarily dismissed this case against the Defendant.
2. Fla. R. Civ. P. 1.420(d) permits a defendant to seek taxation of costs after a Plaintiff voluntarily dismisses an action.
3. As a general rule, a cost item is taxable where it can be shown to relate to matters that serve a “useful purpose” in the litigation process and is directly related to the trial or the development of the party’s case. *Schumacher v. Wellman*, 415 So. 2d 120, 122 (Fla. 4th DCA 1982); *Winn-Dixie Stores, Inc. v. Vote*, 463 So. 2d. 459, 460 (Fla. 2d DCA 1985). in determining the taxability of the cost item, the court is to consider the reasonableness of the amount and the necessity of the expense. *Keener v. Dunning*, 238 So. 2d 113, 114 (Fla. 4th DCA 1970). The Uniform Guidelines for Taxation of Costs (the “Guidelines”) “are advisory only” and the taxation of costs “is within the broad discretion of the trial court.” *In re Amendments to Uniform Guidelines for Taxation of Costs*, 915 So. 2d 612, 614 (Fla. 2005).

4. The Defendant incurred the following costs throughout the pendency of the case:

<b>Description</b>	<b>Amount</b>
US Legal Support—Certificate of Non-Attendance of Deposition of Michael T. Flynn <sup>1</sup>	\$260.00
Milestone Reporting Company—Deposition of Michael T. Flynn (Court Reporter Attendance, Transcript, and Videographer) <sup>2</sup>	\$1,329.30
Remote Legal--Copy of Transcript from Deposition of Defendant Jim Stewartson <sup>3</sup>	\$500.00
Milestone Reporting Company—Court Reporter Attendance Fee at 2/24/26 Case Management Conference <sup>4</sup>	\$130.00
Charles W. Ross, PA—Mediation Fee <sup>5</sup>	\$1,750.00
Milestone Reporting Company—Cancellation Fee for 3/12/26 Docket Sounding <sup>6</sup>	\$85.00
Legal Research—Lexis	\$1,163.04
<b>Total</b>	<b>\$5,217.34</b>

WHEREFORE, Defendant, JIM STEWARTSON, respectfully requests that this Court tax Plaintiff, MICHAEL T. FLYNN, with costs in the amount of \$5,217.34, enter judgment against

<sup>1</sup> The Plaintiff opted not to attend this deposition, filing a last minute Motion for Protective Order after the Court Reporter’s cancellation deadline which was not granted by the Court.

<sup>2</sup> The cost of depositions is both properly taxable against the unsuccessful litigant under the Guidelines and where it is shown that the deposition was “reasonably necessary” and served a “useful purpose in the litigation process.” *Willey v. M.K. Roark, Inc.*, 616 So. 2d 1140, 1142 (Fla. 4th DCA 1993); *Schumacher v. Wellman*, 415 So. 2d 120, 123; *Southeast Florida Cable, Inc. v. Islandia I Condominium Association, Inc.*, 661 So. 2d 91, 92 (Fla. 4th DCA 1995); *Winn-Dixie Stores, Inc. v. Vote*, 463 So. 2d 459, 460 (Fla. 2d DCA 1985). The depositions in this instant case were of the parties and were necessary in order to evaluate claims and defenses and to subsequently prepare for a trial that did not occur.

<sup>3</sup> See FN 2 and the Guidelines.

<sup>4</sup> The court reporter’s attendance fee for pre-trial motion hearings and costs of transcription are properly taxable against the unsuccessful litigant where the court reporter and/or transcript serve a “useful and necessary purpose.” *Wilkins v. SuperX Drugs of Florida, Inc.*, 232 So. 2d 19, 20 (Fla. 4th DCA 1970); *Martin v. Marlin*, 528 So. 2d 943 (Fla. 3d DCA 1988).

<sup>5</sup> The mediation in this case was required by a Court order of referral to mediation, and is thus taxable. *Orlando Regional Medical Center v. Chimielewski*, 573 So. 2d 876, 883 (Fla. 5th DCA 1990); *Ledbetter v. Todd*, 418 So. 2d 1116 (Fla. 5th DCA 1982). Notably, the Defendant opposed the referral to mediation when requested by the Plaintiff sua sponte at the February 24, 2026 Case Management Conference.

<sup>6</sup> The case was unilaterally dismissed by Plaintiff on March 11, 2026 after the Court Reporter’s cancellation deadline.

Plaintiff Flynn and in favor of Defendant Stewartson in the amount of \$4,967.34, and grant Defendant any other relief that this Court deems proper and just.

Dated: April 9, 2026

/s/ George A.D. Thurlow

George A.D. Thurlow, Esquire  
FBN 1019960

### **CERTIFICATE OF CONFERRAL**

**I HEREBY CERTIFY** that before filing this Motion, I attempted to confer with Plaintiff's counsel Stephen French and Jared Roberts via email on multiple occasions, and they have indicated that they are opposed to the relief sought herein.

### **CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing document was served upon Stephen French, Esquire and Jared Roberts, Esquire via Florida E-Filing Portal on this 9th day of April, 2026.

/s/ George A.D. Thurlow

Craig A. Whisenhunt, Esquire  
FBN 81745

Lawogy, PLLC

6883 26<sup>th</sup> Street North

St. Petersburg, FL 33702

Phone: (727)256-1660

Email: [craig@lawogy.com](mailto:craig@lawogy.com)

George A.D. Thurlow, Esquire

FBN 1019960

Rahdert, Mortimer & Thurlow

535 Central Avenue, Suite 200

St. Petersburg, FL 33701

Phone: (727)823-4191

Fax: (727)823-6189

Email: [gthurlow@rahdertlaw.com](mailto:gthurlow@rahdertlaw.com)

[tmccreary@rahdertlaw.com](mailto:tmccreary@rahdertlaw.com)

Attorneys for Defendant, STEWARTSON