1987 WL 4992
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United States District Court, N.D. Illinois, Eastern Division.

GERALDINE G. CANNON, Plaintiff,
v.
LOYOLA UNIVERSITY OF CHICAGO, et al., Defendants.

No. 86 C 5437.
|
April 28, 1987.

MEMORANDUM ORDER

ASPEN, District Judge:

***1** Defendants Northwestern University, University of Health Sciences/The Chicago Medical School, Southern Illinois University, University of Illinois and the University of Chicago have requested that this Court enter judgment pursuant to Fed.R.Civ.P. 58 on our January 22, 1987 Order in which we awarded the defendants in this case costs and attorneys' fees under Fed.R.Civ.P. 11. Each of these defendants have tendered affidavits setting forth in detail how they have calculated the requested amounts.

Northwestern University incurred attorneys' fees of $4,158.75. University of Health Science/The Chicago Medical School incurred attorneys' fees of $1,255.00 and costs of $3.00. Southern Illinois University incurred attorneys' fees of $7,041.25 and costs of $326.33. The University of Illinois incurred attorneys' fees of $1,875.00. The University of Chicago incurred attorneys' fees of $7,487.50 and costs of $373.83.

In her response to these various petitions for fees, Cannon raises three issues. First, she argues that the motions for entry of judgment must be denied because defendants should have filed a motion to amend our August 5, 1986 Rule 58 judgment to include the requested amounts.[1] However, on Rule 58, entry of judgment is not to be delayed for the taxing of costs. Fed.R.Civ.P. 58. Attorney's fees are properly included in this as the taxing of costs. See Richards v. The Government of the Virgin Islands, 579 F.2d 830 (3d Cir. 1978).

Next, Cannon contends that if her complaint was so lacking in merit as to justify sanctions under Fed.R.Civ.P. 11, that 'the expenditure of even a full hour merely to concur in the rudimentary removal petition and motion to dismiss would be excessive.' Or that 'if the fees sought are not excessive, then the issues must be far more difficult and complex than would permit Rule 11 sanctions.' Thus, Cannon would have us determine the merits of a Rule 11 motion on the basis of the time the other party had to spend fending off the frivolous pleading or motion. Obviously, if it were so easy to dispose of a frivolous pleading or motion, then there would not be a need for a Rule 11 in the first place. It is precisely because a frivolous pleading or motion can be so expensive to defend that Rule 11 was created. Nor are we persuaded the merits of a Rule 11 motion have anything to do with how many hours the party requesting sanctions spent defending the frivolous pleading or motion. We find that the amounts requested by these defendants to be reasonable under the circumstances of this case.

Finally, Cannon attempts to recharacterize the grounds of our dismissal of this case as a novel question of law, thus precluding sanctions. As we indicated in our August 5 1986 Order, this case was dismissed because '[t]his suit clearly arises out of the same 'core of operative facts' Cannon complained of earlier and therefore is res judicata,' and not on the basis of some novel question of law.

Finding there is no reason not to enter judgment in favor of these defendants under Rule 58, the clerk is directed to enter judgment for the following defendants in the respective amounts.

Defendant	Amount

Northwestern University	$4,158.75
University of Health Science/	
The Chicago Medical School	$1,258.00
Southern Illinois University	$7,367.58
The University of Illinois	$1,875.00
The University of Chicago	$7,861.33

***2** It is so ordered.

All Citations

Not Reported in F.Supp., 1987 WL 4992

Footnotes

[1] We find it very peculiar that Cannon recognizes the fact that we have not entered a Rule 58 judgment on our January 22, 1987 Order in which we granted defendants' request for sanctions, yet has chosen to appeal that January 22, 1987 Order as if we had entered a final judgment pursuant to Rule 58. We trust defendants will apprise the Seventh Circuit appropriately.