

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

HANK'S BEVERAGE COMPANY, on behalf of itself and others similarly situated	:	CIVIL ACTION
	:	
v.	:	
	:	
AJINOMOTO COMPANY, et al.	:	NO. 06-cv-1732

CLERK'S TAXATION OF COSTS

This taxation opinion grows out of five civil actions filed in this court in the year 2006 by five different plaintiffs; these five civil actions were docketed as 06-cv-1732; 06-cv-1751; 06-cv-2065; 06-cv-2236; and 06-cv-2241.

The plaintiff in 06-cv-1732 was Hank's Beverage Company, on behalf of itself and others similarly situated.

The plaintiff in 06-cv-1751 was Nog, Inc., on behalf of itself and others similarly situated.

The plaintiff in 06-cv-2065 was College Club Beverage Company, Inc., on behalf of itself and others similarly situated.

The plaintiff in 06-cv-2236 was The Andorra Ridge Company, on behalf of itself and others similarly situated.

The plaintiff in 06-cv-2241 was Sorbee International, Ltd., on behalf of itself and others similarly situated.

All five of the aforesaid civil actions named the same defendants (with some differences not relevant to this taxation opinion).

This court's jurisdiction in all five of the aforesaid civil actions was based on alleged violations of federal antitrust laws by defendants (these alleged violations involved the artificial sweetener Aspartame).

On November 22, 2006, all five of the aforesaid civil actions were consolidated by this court for all purposes, with the consolidated case being categorized as 06-cv-1732.

On August 11, 2008, judgment was entered in favor of defendants Ajinomoto Company, Inc.; Ajinomoto USA, Inc.; Ajinomoto Euro-Aspartame S.A.; Ajinomoto Switzerland A.G.; Daesang Corporation; Daesang America, Inc.; The Nutrasweet Company; Nutrasweet A.G.; Euro-Aspartame S.A.; Holland Sweetener Company V.O.F.; Holland Sweetener North America, Inc.; and Ajinomoto Food Ingredients LLC; and against plaintiffs Nog and Sorbee **only**. This judgment was affirmed by the United States Court of Appeals for the Third Circuit on February 22, 2011.

Defendants Ajinomoto Company, Inc.; Ajinomoto USA, Inc.; Ajinomoto Euro-Aspartame S.A.; Ajinomoto Switzerland A.G.; and Ajinomoto Food Ingredients LLC (hereinafter “the Ajinomoto defendants”) filed their bill of costs against plaintiffs Nog and Sorbee on February 17, 2009 (hereinafter “the Ajinomoto bill of costs”).

Defendant Nutrasweet Company filed a bill of costs and a corrected bill of costs on February 17, 2009 (hereinafter “the Nutrasweet bill of costs”).

Defendants Holland Sweetener Company VOF and Holland Sweetener North America, Inc. (hereinafter “the Holland defendants”) filed their bill of costs on February 17, 2009 (hereinafter “the Holland bill of costs”).

Plaintiffs Nog and Sorbee (hereinafter “the taxation plaintiffs”) filed a joint objection to the four aforesaid bills of costs on March 21, 2011.

The Ajinomoto defendants, Nutrasweet Company and the Holland defendants filed a joint response to the taxation plaintiffs’ aforesaid objections on April 4, 2011.

This taxation opinion shall address the various bills of costs **seriatim**, and in the sequence set forth above.

PART ONE: THE AJINOMOTO BILL OF COSTS.

In their bill of costs, the Ajinomoto defendants seek costs allegedly incurred before this district court the amount of \$165,120.73. It is well-established that district court costs may not be imposed in federal district courts except where they are authorized by either a statute or a rule of court.¹ For the purposes of this taxation opinion,² federal district court costs are governed by Federal Rule of Civil Procedure 54(d).³ The text of Federal Rule of Civil Procedure 54(d) is divided into two sections:

- * Federal Rule of Civil Procedure 54(d)(2), which by its own terms governs **“Attorney’s Fees(;)”**
- and
- * Federal Rule of Civil Procedure 54(d)(1), which by its own terms governs **“Costs Other Than Attorney’s Fees.”**

All of those “Costs Other Than Attorney’s Fees” made taxable by Federal Rule of Civil Procedure 54(d)(1) are listed in 28 U.S.C. §1920,⁴ and the Clerk⁵ has authority to tax those types of district court costs which are listed in 28 U.S.C. §1920 in favor of the prevailing party or parties, and against the non-prevailing party or parties.⁶

Those items taxable in the first instance by the Clerk, as listed in 28 U.S.C. §1920, are:

- “(1) Fees of the clerk or marshal;
- “(2) Fees for printed or electronically recorded transcripts necessarily obtained for use in the case;
- “(3) Fees and disbursements for printing and witnesses;
- “(4) Fees for exemplification and the cost of making copies of any materials where the copies are necessarily obtained for use in the case;
- “(5) Docket fees under (28 U.S.C. §1923); (and)
- “(6) Compensation of court appointed experts, compensation of interpreters, and salaries, fees, expenses, and costs of special interpretation services under (28 U.S.C. §1828).”

Accordingly, for the purposes of this taxation opinion,⁷ the Clerk may only tax those district court costs which are listed in 28 U.S.C. §1920.⁸ Since the items of district court costs sought by the Ajinomoto defendants are all, at least arguably, of those types of costs listed in 28 U.S.C. §1920, they are **not** considered to be attorney's fees,⁹ and they are **also**, at least arguably, taxable by the Clerk of this Court.¹⁰ We note that Federal Rule of Civil Procedure 54(d)(1) directs that "costs -other than attorney fees" (i.e. those costs authorized by 28 U.S.C. §1920¹¹) "**should** be allowed to the prevailing party (emphasis added)." To quote the Supreme Court of the United States, this language is evidence of "specific intent"¹² on the part of Congress that there should be a heavy presumption¹³ that "the 'prevailing party' **automatically** is entitled to costs"¹⁴ as a matter of course, once it has been shown that the costs sought are, at least arguably, of those types of costs listed in 28 U.S.C. §1920.¹⁵ The rationale supporting this heavy presumption is that unlike attorney fees, an assessment of 28 U.S.C. §1920 costs is considered to be purely ministerial, and is not considered to be punitive toward the non-prevailing party or parties, but merely as reimbursement to the prevailing party or parties for their costs in bringing or pursuing a successful civil action¹⁶ (whereas an assessment of attorney fees **is** considered to be punitive¹⁷). A consequence of this heavy presumption is that the non-prevailing party or parties bear the burden of proof, and must overcome the aforesaid heavy presumption in favor of the taxing of costs against that non-prevailing party or parties.¹⁸ Because of this heavy presumption, it is considered punitive towards the prevailing party or parties to deny to that prevailing party or parties costs which are ordinarily automatically taxed under 28 U.S.C. §1920,¹⁹ and it is not necessary for the prevailing party or parties to argue that the non-prevailing party or parties did something that was wrong or inappropriate.²⁰

As a further result of the aforesaid heavy presumption, in the event taxable costs are denied to the prevailing party or parties, the Clerk must specifically state what defect, bad act or impropriety on the part of that prevailing party or parties leads the Clerk to deny to that

prevailing party or parties otherwise allowable costs.²¹ Because of this heavy presumption, there is a recurring theme in caselaw concerning taxation of costs that the prevailing party or parties may recover those types of costs listed in 28 U.S.C. §1920 that were reasonably necessary for their effective preparation, judged in light of the situation existing at the time the costs were incurred, regardless of whether the items for which costs are sought were actually used;²² this is especially true in cases such as the instant matter where the bill of costs is accompanied by an affidavit from counsel for the prevailing party or parties, filed pursuant to 28 U.S.C. §1924, stating, under penalty of perjury, that the costs are correct and were actually and necessarily incurred; the existence of such an affidavit in a Clerk's Taxation of Costs proceeding is given very great weight regarding the Clerk's determination as to whether requested costs are allowable.²³

As the United States Court of Appeals for the Third Circuit appropriately noted in 2010, it is for precisely these reasons that counsel should always advise each client, before commencing the litigation process, that in the event that their litigation is unsuccessful, that there is a risk of taxation of costs against that client pursuant to 28 U.S.C. §1920.²⁴

Since the costs sought by the Ajinomoto defendants are all, at least arguably, of those types of costs listed in the taxation statute, 28 U.S.C. §1920, we are of the view that the taxation plaintiffs bear the burden of proof in this matter.

In an attempt to meet their burden of proof, the taxation plaintiffs raise four general objections to the Ajinomoto bill of costs in its entirety, the first being that the Clerk allegedly has broad discretion to disallow costs and should exercise this alleged discretion because of the alleged "equities" of the case, more specifically that they are allegedly financially unable to pay. According to a 2010 decision of the United States Court of Appeals for the Third Circuit, this is an objection that this clerk and/or this court ***"may not consider."***²⁵

To go into further detail, we note that Federal Rule of Civil Procedure 54(d)(1) directs that “costs -other than attorney fees” (i.e. those costs authorized by 28 U.S.C. §1920) “**should** be allowed to the prevailing party (emphasis added).” To quote the Supreme Court of the United States, this language is evidence of “specific intent”²⁶ on the part of Congress that there should be a heavy presumption²⁷ that “the 'prevailing party' automatically is entitled to costs”²⁸ as a matter of course, once it has been shown that the costs sought are, at least arguably, of those types of costs listed in 28 U.S.C. §1920.²⁹ We are therefore of the view that the Clerk has no discretion to disallow otherwise allowable costs based on an argument rooted in economics; economic disparity between the parties is not a basis for disallowing costs, and a very strong presumption exists that consideration of the equities does not favor a disallowance of costs by the court.³⁰ The Clerk may tax costs not only where the losing party is less affluent than the prevailing party, but also where the losing party is actually indigent.³¹ Even complete and utter inability to pay is not grounds for a disallowance of costs.³² Likewise, even the granting of in forma pauperis status to the losing party does not rebut this heavy presumption.³³

We are of the view that the taxation plaintiffs have not rebutted the aforesaid heavy presumption in favor of the automatic taxing of district court costs, particularly in light of the Third Circuit's 2010 decision in Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010).³⁴ We accordingly disallow this general objection to the bill of costs in its entirety.

The taxation plaintiffs' second general objection to the bill of costs in its entirety is that they allegedly brought the underlying lawsuit in good faith. According to a 2010 decision of the United States Court of Appeals for the Third Circuit, this is an objection that this clerk and/or this court “**may not consider.**”³⁵

To go into further detail, the bare allegation that an action was brought in good faith and was neither frivolous, unreasonable nor without foundation is not sufficient to overcome the presumption inherent in Fed. P. Civ. P. 54(d) that “costs... **should** be allowed to the

prevailing party (emphasis added).³⁶ As the court explained in Popeil Brothers v. Schick Electric, 516 F.2d 772 (7th Cir. 1975), “(i)f the awarding of costs could be thwarted every time the unsuccessful party is a normal, average party and not a knave, Rule 54(d) would have little substance remaining.” 516 F.2d at 776. Hence, “good faith litigation does not absolve a party from imposition of costs.”³⁷ If costs were only taxable in those situations where the losing party acted in bad faith, 28 U.S.C. §1920 would have very little meaning.³⁸ A Clerk's Taxation of Costs proceeding is simply not a forum for re-examining, or for re-litigating, the underlying facts of the lawsuit.³⁹ Therefore, it is not a valid objection that the issues in the underlying case were closely contested and that the final judgment allegedly could have, or allegedly should have, gone in the other direction; the alleged complexity or closeness of the issues litigated is not relevant to the taxing of costs by the Court or Clerk.⁴⁰ Accordingly, as stated previously, there is a **heavy presumption**⁴¹ in favor of **“automatically”**⁴² taxing those types of costs listed in 28 U.S.C. §1920⁴³ which the prevailing parties both **actually incurred** (as evidenced by a sworn affidavit)⁴⁴ and **necessarily incurred for their effective preparation** (judged in light of the situation existing when the costs in question were actually incurred, without regard to whether the costs relate to items which were actually used).⁴⁵

We are of the view that the taxation plaintiffs have not rebutted the aforesaid heavy presumption in favor of the automatic taxing of district court costs, particularly in light of the Third Circuit's 2010 decision in Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010).⁴⁶ We accordingly disallow this second general objection to the Ajinomoto bill of costs in its entirety.

The taxation plaintiffs' third general objection to the Ajinomoto bill of costs in its entirety is that the costs sought are allegedly not sufficiently explained. Provided that the bill of costs is neat and legible, there is no need for counsel to use the court's official bill of costs form;⁴⁷ there is likewise no requirement for the prevailing party or parties to supply receipts⁴⁸

(even in a situation where receipts or a more detailed itemization would be useful to the court and/or opposing counsel),⁴⁹ rather, caselaw holds that the standard is that costs must be sufficiently explained to the extent that opposing counsel can make informed objections and the Clerk or Court can make an informed determination of whether requested costs are allowable.⁵⁰

With regard to the items requested, we are of the view that this standard of sufficient itemization is satisfied in the instant case. As stated previously, there is a heavy presumption⁵¹ in favor of **“automatically”**⁵² taxing those types of costs listed in 28 U.S.C. §1920⁵³ which the prevailing parties both **actually incurred** (as evidenced by a sworn affidavit)⁵⁴ and **necessarily incurred for their effective preparation** (judged in light of the situation existing when the costs in question were actually incurred, without regard to whether the costs relate to items which were actually used).⁵⁵

We are satisfied that the statutory standard of necessity has been met; moreover, the Ajinomoto bill of costs is accompanied by receipts and by an affidavit from counsel for stating, under penalty of perjury, that the costs are correct and were actually and necessarily incurred; the existence of such an affidavit in a Clerk's Taxation of Costs proceeding is given very great weight with respect to the aforesaid burden of proof in favor of the taxation of those types of costs listed in the taxation statute.⁵⁶ We accordingly disallow this third general objection to the Ajinomoto bill of costs in its entirety.

The taxation plaintiffs' fourth general objection to the bill of costs in its entirety is that many of these costs were allegedly incurred as a result of bad faith on the part of the Ajinomoto defendants and/or their counsel during the underlying litigation. A request for taxation of 28 U.S.C. §1920 costs may be disallowed where there has been misconduct by the prevailing party during the litigation process which led to excessive costs;⁵⁷ however, the said alleged misconduct must have been extremely egregious for this objection to prevail.⁵⁸ We are not of the view that the taxation plaintiffs have made such a demonstration, and we

accordingly disallow this fourth general objection to the Ajinomoto bill of costs in its entirety.

Turning now to the substance of the bill of costs, we will first address the request for the Ajinomoto defendants' alleged costs of deposition transcripts, relating to testimony of fact witnesses and/or expert witnesses,⁵⁹ in the amount of in the amount of \$3,701.80.

We note that the relevant statute, 28 U.S.C. §1920(2), directs the taxing of costs for "transcripts necessarily obtained for use in the case." This provision governing "transcripts" applies to deposition transcripts,⁶⁰ and modern caselaw states that both stenographic depositions and videotaped depositions are considered "transcripts" for purposes of 28 U.S.C. §1920(2);⁶¹ moreover, the costs of exhibits attached to a deposition transcript are taxable pursuant to 28 U.S.C. §1920.⁶²

As stated previously, there is a heavy presumption⁶³ in favor of "automatically"⁶⁴ taxing those types of costs listed in 28 U.S.C. §1920⁶⁵ which the prevailing parties both actually incurred (as evidenced by a sworn affidavit)⁶⁶ and necessarily incurred for their effective preparation (judged in light of the situation existing when the costs in question were actually incurred, without regard to whether the costs relate to items which were actually used).⁶⁷ Examples of situations where deposition transcripts are seen as necessary for a party's effective preparation, even where they were not used, include, but are not limited to, situations involving deponents who ultimately do not testify at a trial;⁶⁸ situations involving deponents who ultimately are not permitted by the court to testify at a trial;⁶⁹ and situations where deposition transcripts were necessary to support, or to oppose, pre-trial motions⁷⁰ and/or post-trial motions⁷¹ (including motions seeking the entry of summary judgment,⁷² and/or motions seeking the entry of a default judgment⁷³ and/or motions seeking the entry of a judgment NOV⁷⁴). Considering this definition of "necessary," especially in light of the complexity of the issues presented and the amount of money at stake in the underlying civil action from which this taxation opinion arose, it was clearly "necessary" for to obtain multiple copies of these transcripts, including both stenographic copies of

transcripts and videotaped copies of transcripts of the exact same testimony⁷⁵ where obtaining both copies was necessary to counsel's effective preparation (judged in light of the situation existing when the costs in question were actually incurred, without regard to whether the costs relate to items which were actually used).⁷⁶

Indeed, to posit a completely hypothetical situation, if counsel for the Ajinomoto defendants did not obtain all of the deposition transcripts in question for which costs are sought, and if the Ajinomoto defendants subsequently did not prevail in the underlying litigation in this case, then counsel for the Ajinomoto defendants could conceivably have been accused of professional malpractice for having failed to obtain those deposition transcripts; consideration of the issues presented in this completely hypothetical situation provides strong evidence that these deposition transcript costs were necessarily incurred in this case within the meaning of 28 U.S.C. §1920, and that they are taxable by this Clerk⁷⁷ (especially when combined with the presence of the aforesaid affidavit).

We are of the view that the taxation plaintiffs have not rebutted the aforesaid heavy presumption that these district court costs should be automatically taxed against them. These costs are accordingly taxed in favor of the Ajinomoto defendants and against the taxation plaintiffs in the full requested amount of \$3,701.80.

We will next address the request for the Ajinomoto defendants' alleged costs of exemplification in the amount of \$161,418.93.

Federal courts have traditionally seen costs related to the production of copies of documentary evidence, such as records⁷⁸ or other documents produced in discovery,⁷⁹ as well as the costs of a subpoena duces tecum (also known as a records subpoena or a records deposition)⁸⁰ as taxable costs pursuant to 28 U.S.C. §1920(4).

Likewise, federal courts have traditionally seen costs related to the production of copies of demonstrative evidence⁸¹ (such as photos,⁸² models,⁸³ maps,⁸⁴ blow-ups,⁸⁵ charts,⁸⁶ diagrams,⁸⁷ computer graphics⁸⁸ and the like) as taxable costs under 28 U.S.C. §1920(4).

The costs of hiring a private company that possesses the technology to search for, and/or to recreate, copies of evidence in electronic form, for the purpose of making the alleged facts contained in the exhibits more clear to the finder(s) of fact, are taxable as exemplification under 28 U.S.C. §1920(4),⁸⁹ as generally, neither attorneys nor employees of attorneys are competent to conduct such a search, or to recreate such documents in paper format.⁹⁰

As stated previously, there is a heavy presumption⁹¹ in favor of “automatically”⁹² taxing those types of costs listed in 28 U.S.C. §1920⁹³ which the prevailing parties both actually incurred (as evidenced by a sworn affidavit)⁹⁴ and necessarily incurred for their effective preparation (judged in light of the situation existing when the costs in question were actually incurred, without regard to whether the costs relate to items which were actually used).⁹⁵ We are of the view that considering this definition of “necessary,” especially in light of the complexity of the issues presented and the amount of money at stake in the underlying civil action from which this taxation opinion arose, it was clearly “necessary” for counsel for the prevailing parties to incur these costs.

We are accordingly of the view that the taxation plaintiffs have not rebutted the aforesaid heavy presumption that these district court costs should be automatically taxed against them. We see no relevance in the fact that defense counsel did not provide the taxation plaintiffs with all of the evidence for which costs are requested. These costs are accordingly taxed in favor of the Ajinomoto defendants and against the taxation plaintiffs in the full requested amount of \$161,418.93.

In summary, district court costs are taxed in favor of the Ajinomoto defendants and against the taxation plaintiffs as follows:

Deposition transcript costs:	\$ 3,701.80
Exemplification costs:	161,418.93
TOTAL:	<u>\$165,120.73</u>

PART TWO: THE TWO NUTRASWEET BILLS OF COSTS.

In their bills of costs, Nutrasweet seeks costs allegedly incurred before this district court the amount of \$215,540.53. It is well-established that district court costs may not be imposed in federal district courts except where they are authorized by either a statute or a rule of court.⁹⁶ For the purposes of this taxation opinion,⁹⁷ federal district court costs are governed by Federal Rule of Civil Procedure 54(d).⁹⁸ The text of Federal Rule of Civil Procedure 54(d) is divided into two sections:

- * Federal Rule of Civil Procedure 54(d)(2), which by its own terms governs **“Attorney’s Fees(;)”**
- and
- * Federal Rule of Civil Procedure 54(d)(1), which by its own terms governs **“Costs Other Than Attorney’s Fees.”**

All of those “Costs Other Than Attorney’s Fees” made taxable by Federal Rule of Civil Procedure 54(d)(1) are listed in 28 U.S.C. §1920,⁹⁹ and the Clerk¹⁰⁰ has authority to tax those types of district court costs which are listed in 28 U.S.C. §1920 in favor of the prevailing party or parties, and against the non-prevailing party or parties.¹⁰¹

Those items taxable in the first instance by the Clerk, as listed in 28 U.S.C. §1920, are:

- “(1) Fees of the clerk or marshal;
- “(2) Fees for printed or electronically recorded transcripts necessarily obtained for use in the case;
- “(3) Fees and disbursements for printing and witnesses;
- “(4) Fees for exemplification and the cost of making copies of any materials where the copies are necessarily obtained for use in the case;
- “(5) Docket fees under (28 U.S.C. §1923); (and)
- “(6) Compensation of court appointed experts, compensation of interpreters, and salaries, fees, expenses, and costs of special interpretation services under (28 U.S.C. §1828).”

Accordingly, for the purposes of this taxation opinion,¹⁰² the Clerk may only tax those district court costs which are listed in 28 U.S.C. §1920.¹⁰³ Since the items of district court costs sought by Nutrasweet are all, at least arguably, of those types of costs listed in 28 U.S.C. §1920, they are **not** considered to be attorney's fees,¹⁰⁴ and they are **also**, at least arguably, taxable by the Clerk of this Court.¹⁰⁵ We note that Federal Rule of Civil Procedure 54(d)(1) directs that "costs -other than attorney fees" (i.e. those costs authorized by 28 U.S.C. §1920¹⁰⁶) "**should** be allowed to the prevailing party (emphasis added)." To quote the Supreme Court of the United States, this language is evidence of "specific intent"¹⁰⁷ on the part of Congress that there should be a heavy presumption¹⁰⁸ that "the 'prevailing party' **automatically** is entitled to costs"¹⁰⁹ as a matter of course, once it has been shown that the costs sought are, at least arguably, of those types of costs listed in 28 U.S.C. §1920.¹¹⁰ The rationale supporting this heavy presumption is that unlike attorney fees, an assessment of 28 U.S.C. §1920 costs is considered to be purely ministerial, and is not considered to be punitive toward the non-prevailing party or parties, but merely as reimbursement to the prevailing party or parties for their costs in bringing or pursuing a successful civil action¹¹¹ (whereas an assessment of attorney fees **is** considered to be punitive¹¹²). A consequence of this heavy presumption is that the non-prevailing party or parties bear the burden of proof, and must overcome the aforesaid heavy presumption in favor of the taxing of costs against that non-prevailing party or parties.¹¹³ Because of this heavy presumption, it is considered punitive towards the prevailing party or parties to deny to that prevailing party or parties costs which are ordinarily automatically taxed under 28 U.S.C. §1920,¹¹⁴ and it is not necessary for the prevailing party or parties to argue that the non-prevailing party or parties did something that was wrong or inappropriate.¹¹⁵

As a further result of the aforesaid heavy presumption, in the event taxable costs are denied to the prevailing party or parties, the Clerk must specifically state what defect, bad act or impropriety on the part of that prevailing party or parties leads the Clerk to deny to that

prevailing party or parties otherwise allowable costs.¹¹⁶ Because of this heavy presumption, there is a recurring theme in caselaw concerning taxation of costs that the prevailing party or parties may recover those types of costs listed in 28 U.S.C. §1920 that were reasonably necessary for their effective preparation, judged in light of the situation existing at the time the costs were incurred, regardless of whether the items for which costs are sought were actually used;¹¹⁷ this is especially true in cases such as the instant matter where the bill of costs is accompanied by an affidavit from counsel for the prevailing party or parties, filed pursuant to 28 U.S.C. §1924, stating, under penalty of perjury, that the costs are correct and were actually and necessarily incurred; the existence of such an affidavit in a Clerk's Taxation of Costs proceeding is given very great weight regarding the Clerk's determination as to whether requested costs are allowable.¹¹⁸

As the United States Court of Appeals for the Third Circuit appropriately noted in 2010, it is for precisely these reasons that counsel should always advise each client, before commencing the litigation process, that in the event that their litigation is unsuccessful, that there is a risk of taxation of costs against that client pursuant to 28 U.S.C. §1920.¹¹⁹

Since the costs sought by Nutrasweet are all, at least arguably, of those types of costs listed in the taxation statute, 28 U.S.C. §1920, we are of the view that the taxation plaintiffs bear the burden of proof in this matter.

In an attempt to meet their burden of proof, the taxation plaintiffs raise four general objections to the Nutrasweet bills of costs in their entirety, the first being that the Clerk allegedly has broad discretion to disallow costs and should exercise this alleged discretion because of the alleged "equities" of the case, more specifically that they are allegedly financially unable to pay. According to a 2010 decision of the United States Court of Appeals for the Third Circuit, this is an objection that this clerk and/or this court ***"may not consider."***¹²⁰

To go into further detail, we note that Federal Rule of Civil Procedure 54(d)(1) directs that “costs -other than attorney fees” (i.e. those costs authorized by 28 U.S.C. §1920) “**should** be allowed to the prevailing party (emphasis added).” To quote the Supreme Court of the United States, this language is evidence of “specific intent”¹²¹ on the part of Congress that there should be a heavy presumption¹²² that “the ‘prevailing party’ automatically is entitled to costs”¹²³ as a matter of course, once it has been shown that the costs sought are, at least arguably, of those types of costs listed in 28 U.S.C. §1920.¹²⁴ We are therefore of the view that the Clerk has no discretion to disallow otherwise allowable costs based on an argument rooted in economics; economic disparity between the parties is not a basis for disallowing costs, and a very strong presumption exists that consideration of the equities does not favor a disallowance of costs by the court.¹²⁵ The Clerk may tax costs not only where the losing party is less affluent than the prevailing party, but also where the losing party is actually indigent.¹²⁶ Even complete and utter inability to pay is not grounds for a disallowance of costs.¹²⁷ Likewise, even the granting of in forma pauperis status to the losing party does not rebut this heavy presumption.¹²⁸

We are of the view that the taxation plaintiffs have not rebutted the aforesaid heavy presumption in favor of the automatic taxing of district court costs, particularly in light of the Third Circuit's 2010 decision in Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010).¹²⁹ We accordingly disallow this general objection to the bills of costs in their entirety.

The taxation plaintiffs' second general objection to the bills of costs in their entirety is that they allegedly brought the underlying lawsuit in good faith. According to a 2010 decision of the United States Court of Appeals for the Third Circuit, this is an objection that this clerk and/or this court “**may not consider.**”¹³⁰

To go into further detail, the bare allegation that an action was brought in good faith and was neither frivolous, unreasonable nor without foundation is not sufficient to overcome the presumption inherent in Fed. P. Civ. P. 54(d) that “costs... **should** be allowed to the

prevailing party (emphasis added).¹³¹ As the court explained in Popeil Brothers v. Schick Electric, 516 F.2d 772 (7th Cir. 1975), “(i)f the awarding of costs could be thwarted every time the unsuccessful party is a normal, average party and not a knave, Rule 54(d) would have little substance remaining.” 516 F.2d at 776. Hence, “good faith litigation does not absolve a party from imposition of costs.”¹³² If costs were only taxable in those situations where the losing party acted in bad faith, 28 U.S.C. §1920 would have very little meaning.¹³³ A Clerk's Taxation of Costs proceeding is simply not a forum for re-examining, or for re-litigating, the underlying facts of the lawsuit.¹³⁴ Therefore, it is not a valid objection that the issues in the underlying case were closely contested and that the final judgment allegedly could have, or allegedly should have, gone in the other direction; the alleged complexity or closeness of the issues litigated is not relevant to the taxing of costs by the Court or Clerk.¹³⁵ Accordingly, as stated previously, there is a **heavy presumption**¹³⁶ in favor of **“automatically”**¹³⁷ taxing those types of costs listed in 28 U.S.C. §1920¹³⁸ which the prevailing party both **actually incurred** (as evidenced by a sworn affidavit)¹³⁹ and **necessarily incurred for their effective preparation** (judged in light of the situation existing when the costs in question were actually incurred, without regard to whether the costs relate to items which were actually used).¹⁴⁰

We are of the view that the taxation plaintiffs have not rebutted the aforesaid heavy presumption in favor of the automatic taxing of district court costs, particularly in light of the Third Circuit's 2010 decision in Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010).¹⁴¹ We accordingly disallow this second general objection to the Nutrasweet bills of costs in their entirety.

The taxation plaintiffs' third general objection to the Nutrasweet bills of costs in their entirety is that the costs sought are allegedly not sufficiently explained. Provided that the bill of costs is neat and legible, there is no need for counsel to use the court's official bill of costs form;¹⁴² there is likewise no requirement for the prevailing party or parties to supply

receipts¹⁴³ (even in a situation where receipts or a more detailed itemization would be useful to the court and/or opposing counsel),¹⁴⁴ rather, caselaw holds that the standard is that costs must be sufficiently explained to the extent that opposing counsel can make informed objections and the Clerk or Court can make an informed determination of whether requested costs are allowable.¹⁴⁵

With regard to the items requested, we are of the view that this standard of sufficient itemization is satisfied in the instant case. As stated previously, there is a heavy presumption¹⁴⁶ in favor of **“automatically”**¹⁴⁷ taxing those types of costs listed in 28 U.S.C. §1920¹⁴⁸ which the prevailing parties both **actually incurred** (as evidenced by a sworn affidavit)¹⁴⁹ and **necessarily incurred for their effective preparation** (judged in light of the situation existing when the costs in question were actually incurred, without regard to whether the costs relate to items which were actually used).¹⁵⁰

We are satisfied that the statutory standard of necessity has been met; moreover, the Nutrasweet bill of costs is accompanied by receipts and by an affidavit from counsel for stating, under penalty of perjury, that the costs are correct and were actually and necessarily incurred; the existence of such an affidavit in a Clerk's Taxation of Costs proceeding is given very great weight with respect to the aforesaid burden of proof in favor of the taxation of those types of costs listed in the taxation statute.¹⁵¹ We accordingly disallow this third general objection to the Nutrasweet bills of costs in their entirety.

The taxation plaintiffs' fourth general objection to the bills of costs in their entirety is that many of these costs were allegedly incurred as a result of bad faith on the part of Nutrasweet and/or its counsel during the underlying litigation. A request for taxation of 28 U.S.C. §1920 costs may be disallowed where there has been misconduct by the prevailing party during the litigation process which led to excessive costs;¹⁵² however, the said alleged misconduct must have been **VERY, VERY BAD** for this objection to prevail.¹⁵³ We are not of the view that the taxation plaintiffs have made such a demonstration, and we accordingly

disallow this fourth general objection to the Nutrasweet bills of costs in their entirety.

Turning now to the substance of the bill of costs, we will first address the request for Nutrasweet's alleged costs of deposition transcripts, relating to testimony of fact witnesses and/or expert witnesses,¹⁵⁴ in the amount of in the amount of \$4,027.50.

We note that the relevant statute, 28 U.S.C. §1920(2), directs the taxing of costs for "transcripts necessarily obtained for use in the case." This provision governing "transcripts" applies to deposition transcripts;¹⁵⁵ and modern caselaw states that both stenographic depositions and videotaped depositions are considered "transcripts" for purposes of 28 U.S.C. §1920(2),¹⁵⁶ moreover, the costs of exhibits attached to a deposition transcript are taxable pursuant to 28 U.S.C. §1920.¹⁵⁷

As stated previously, there is a heavy presumption¹⁵⁸ in favor of "automatically"¹⁵⁹ taxing those types of costs listed in 28 U.S.C. §1920¹⁶⁰ which the prevailing parties both actually incurred (as evidenced by a sworn affidavit)¹⁶¹ and necessarily incurred for their effective preparation (judged in light of the situation existing when the costs in question were actually incurred, without regard to whether the costs relate to items which were actually used).¹⁶² Examples of situations where deposition transcripts are seen as necessary for a party's effective preparation, even where they were not used, include, but are not limited to, situations involving deponents who ultimately do not testify at a trial;¹⁶³ situations involving deponents who ultimately are not permitted by the court to testify at a trial;¹⁶⁴ and situations where deposition transcripts were necessary to support, or to oppose, pre-trial motions¹⁶⁵ and/or post-trial motions¹⁶⁶ (including motions seeking the entry of summary judgment,¹⁶⁷ and/or motions seeking the entry of a default judgment¹⁶⁸ and/or motions seeking the entry of a judgment NOV¹⁶⁹). Considering this definition of "necessary," especially in light of the complexity of the issues presented and the amount of money at stake in the underlying civil action from which this taxation opinion arose, it was clearly "necessary" for to obtain multiple copies of these transcripts, including both stenographic

copies of transcripts and videotaped copies of transcripts of the exact same testimony¹⁷⁰ where obtaining both copies was necessary to counsel's effective preparation (judged in light of the situation existing when the costs in question were actually incurred, without regard to whether the costs relate to items which were actually used).¹⁷¹

Indeed, to posit a completely hypothetical situation, if counsel for Nutrasweet did not obtain all of the deposition transcripts in question for which costs are sought, and if Nutrasweet subsequently did not prevail in the underlying litigation in this case, then counsel for Nutrasweet could conceivably have been accused of professional malpractice for having failed to obtain those deposition transcripts; consideration of the issues presented in this completely hypothetical situation provides strong evidence that these deposition transcript costs were necessarily incurred in this case within the meaning of 28 U.S.C. §1920, and that they are taxable by this Clerk¹⁷² (especially when combined with the presence of the aforesaid affidavit).

We are of the view that the taxation plaintiffs have not rebutted the aforesaid heavy presumption that these district court costs should be automatically taxed against them. These costs are accordingly taxed in favor of Nutrasweet and against the taxation plaintiffs in the full requested amount of \$4,027.50.

We will next address the request for Nutrasweet's alleged costs of exemplification in the amount of \$211,513.03.

Federal courts have traditionally seen costs related to the production of copies of documentary evidence, such as records¹⁷³ or other documents produced in discovery,¹⁷⁴ as well as the costs of a subpoena duces tecum (also known as a records subpoena or a records deposition)¹⁷⁵ as taxable costs pursuant to 28 U.S.C. §1920(4).

Likewise, federal courts have traditionally seen costs related to the production of copies of demonstrative evidence¹⁷⁶ (such as photos,¹⁷⁷ models,¹⁷⁸ maps,¹⁷⁹ blow-ups,¹⁸⁰ charts,¹⁸¹ diagrams,¹⁸² computer graphics¹⁸³ and the like) as taxable costs under 28 U.S.C.

§1920(4).

The costs of hiring a private company that possesses the technology to search for, and/or to recreate, copies of evidence in electronic form, for the purpose of making the alleged facts contained in the exhibits more clear to the finder(s) of fact, are taxable as exemplification under 28 U.S.C. §1920(4),¹⁸⁴ as generally, neither attorneys nor employees of attorneys are competent to conduct such a search, or to recreate such documents in paper format.¹⁸⁵

As stated previously, there is a heavy presumption¹⁸⁶ in favor of **“automatically”**¹⁸⁷ taxing those types of costs listed in 28 U.S.C. §1920¹⁸⁸ which the prevailing parties both **actually incurred** (as evidenced by a sworn affidavit)¹⁸⁹ and **necessarily incurred for their effective preparation** (judged in light of the situation existing when the costs in question were actually incurred, without regard to whether the costs relate to items which were actually used).¹⁹⁰ We are of the view that considering this definition of “necessary,” especially in light of the complexity of the issues presented and **the amount of money at stake in the underlying civil action** from which this taxation opinion arose, it was clearly “necessary” for counsel for Nutrasweet to incur these costs.

We are accordingly of the view that the taxation plaintiffs have not rebutted the aforesaid heavy presumption that these district court costs should be automatically taxed against them. We see no relevance in the fact that defense counsel did not provide the taxation plaintiffs with all of the evidence for which costs are requested. These costs are accordingly taxed in favor of Nutrasweet and against the taxation plaintiffs in the full requested amount of \$211,513.03.

In summary, district court costs are taxed in favor of Nutrasweet and against the taxation plaintiffs as follows:

Deposition transcript costs:	\$ 4,027.50
Exemplification costs:	<u>211,513.03</u>
TOTAL:	<u>\$215,540.53</u>

PART THREE: THE HOLLAND BILL OF COSTS.

In their bill of costs, Holland defendants seek costs allegedly incurred before this district court the amount of \$195,398.82. It is well-established that district court costs may not be imposed in federal district courts except where they are authorized by either a statute or a rule of court.¹⁹¹ For the purposes of this taxation opinion,¹⁹² federal district court costs are governed by Federal Rule of Civil Procedure 54(d).¹⁹³ The text of Federal Rule of Civil Procedure 54(d) is divided into two sections:

- * Federal Rule of Civil Procedure 54(d)(2), which by its own terms governs **“Attorney’s Fees(;)”**
- and
- * Federal Rule of Civil Procedure 54(d)(1), which by its own terms governs **“Costs Other Than Attorney’s Fees.”**

All of those “Costs Other Than Attorney’s Fees” made taxable by Federal Rule of Civil Procedure 54(d)(1) are listed in 28 U.S.C. §1920,¹⁹⁴ and the Clerk¹⁹⁵ has authority to tax those types of district court costs which are listed in 28 U.S.C. §1920 in favor of the prevailing party or parties, and against the non-prevailing party or parties.¹⁹⁶

Those items taxable in the first instance by the Clerk, as listed in 28 U.S.C. §1920, are:

- “(1) Fees of the clerk or marshal;
- “(2) Fees for printed or electronically recorded transcripts necessarily obtained for use in the case;
- “(3) Fees and disbursements for printing and witnesses;
- “(4) Fees for exemplification and the cost of making copies of any materials where the copies are necessarily obtained for use in the case;
- “(5) Docket fees under (28 U.S.C. §1923); (and)
- “(6) Compensation of court appointed experts, compensation of interpreters, and salaries, fees, expenses, and costs of special interpretation services under (28 U.S.C. §1828).”

Accordingly, for the purposes of this taxation opinion,¹⁹⁷ the Clerk may only tax those district court costs which are listed in 28 U.S.C. §1920.¹⁹⁸ Since the items of district court costs sought by the Holland defendants are all, at least arguably, of those types of costs listed in 28 U.S.C. §1920, they are **not** considered to be attorney's fees,¹⁹⁹ and they are **also**, at least arguably, taxable by the Clerk of this Court.²⁰⁰ We note that Federal Rule of Civil Procedure 54(d)(1) directs that "costs -other than attorney fees" (i.e. those costs authorized by 28 U.S.C. §1920²⁰¹) "**should** be allowed to the prevailing party (emphasis added)." To quote the Supreme Court of the United States, this language is evidence of "specific intent"²⁰² on the part of Congress that there should be a heavy presumption²⁰³ that "the 'prevailing party' **automatically** is entitled to costs"²⁰⁴ as a matter of course, once it has been shown that the costs sought are, at least arguably, of those types of costs listed in 28 U.S.C. §1920.²⁰⁵ The rationale supporting this heavy presumption is that unlike attorney fees, an assessment of 28 U.S.C. §1920 costs is considered to be purely ministerial, and is not considered to be punitive toward the non-prevailing party or parties, but merely as reimbursement to the prevailing party or parties for their costs in bringing or pursuing a successful civil action²⁰⁶ (whereas an assessment of attorney fees **is** considered to be punitive²⁰⁷). A consequence of this heavy presumption is that the non-prevailing party or parties bear the burden of proof, and must overcome the aforesaid heavy presumption in favor of the taxing of costs against that non-prevailing party or parties.²⁰⁸ Because of this heavy presumption, it is considered punitive towards the prevailing party or parties to deny to that prevailing party or parties costs which are ordinarily automatically taxed under 28 U.S.C. §1920,²⁰⁹ and it is not necessary for the prevailing party or parties to argue that the non-prevailing party or parties did something that was wrong or inappropriate.²¹⁰

As a further result of the aforesaid heavy presumption, in the event taxable costs are denied to the prevailing party or parties, the Clerk must specifically state what defect, bad act or impropriety on the part of that prevailing party or parties leads the Clerk to deny to that

prevailing party or parties otherwise allowable costs.²¹¹ Because of this heavy presumption, there is a recurring theme in caselaw concerning taxation of costs that the prevailing party or parties may recover those types of costs listed in 28 U.S.C. §1920 that were reasonably necessary for their effective preparation, judged in light of the situation existing at the time the costs were incurred, regardless of whether the items for which costs are sought were actually used;²¹² this is especially true in cases such as the instant matter where the bill of costs is accompanied by an affidavit from counsel for the prevailing party or parties, filed pursuant to 28 U.S.C. §1924, stating, under penalty of perjury, that the costs are correct and were actually and necessarily incurred; the existence of such an affidavit in a Clerk's Taxation of Costs proceeding is given very great weight regarding the Clerk's determination as to whether requested costs are allowable.²¹³

As the United States Court of Appeals for the Third Circuit appropriately noted in 2010, it is for precisely these reasons that counsel should always advise each client, before commencing the litigation process, that in the event that their litigation is unsuccessful, that there is a risk of taxation of costs against that client pursuant to 28 U.S.C. §1920.²¹⁴

Since the costs sought by the Holland defendants are all, at least arguably, of those types of costs listed in the taxation statute, 28 U.S.C. §1920, we are of the view that the taxation plaintiffs bear the burden of proof in this matter.

In an attempt to meet their burden of proof, the taxation plaintiffs raise four general objections to the Holland bill of costs in its entirety, the first being that the Clerk allegedly has broad discretion to disallow costs and should exercise this alleged discretion because of the alleged "equities" of the case, more specifically that they are allegedly financially unable to pay. According to a 2010 decision of the United States Court of Appeals for the Third Circuit, this is an objection that this clerk and/or this court **"may not consider."**²¹⁵

To go into further detail, we note that Federal Rule of Civil Procedure 54(d)(1) directs that “costs -other than attorney fees” (i.e. those costs authorized by 28 U.S.C. §1920) “**should** be allowed to the prevailing party (emphasis added).” To quote the Supreme Court of the United States, this language is evidence of “specific intent”²¹⁶ on the part of Congress that there should be a heavy presumption²¹⁷ that “the ‘prevailing party’ automatically is entitled to costs”²¹⁸ as a matter of course, once it has been shown that the costs sought are, at least arguably, of those types of costs listed in 28 U.S.C. §1920.²¹⁹ We are therefore of the view that the Clerk has no discretion to disallow otherwise allowable costs based on an argument rooted in economics; economic disparity between the parties is not a basis for disallowing costs, and a very strong presumption exists that consideration of the equities does not favor a disallowance of costs by the court.²²⁰ The Clerk may tax costs not only where the losing party is less affluent than the prevailing party, but also where the losing party is actually indigent.²²¹ Even complete and utter inability to pay is not grounds for a disallowance of costs.²²² Likewise, even the granting of in forma pauperis status to the losing party does not rebut this heavy presumption.²²³

We are of the view that the taxation plaintiffs have not rebutted the aforesaid heavy presumption in favor of the automatic taxing of district court costs, particularly in light of the Third Circuit's 2010 decision in Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010).²²⁴ We accordingly disallow this general objection to the Holland bill of costs in its entirety.

The taxation plaintiffs’ second general objection to the bill of costs in its entirety is that they allegedly brought the underlying lawsuit in good faith. According to a 2010 decision of the United States Court of Appeals for the Third Circuit, this is an objection that this clerk and/or this court “**may not consider.**”²²⁵

To go into further detail, the bare allegation that an action was brought in good faith and was neither frivolous, unreasonable nor without foundation is not sufficient to overcome

the presumption inherent in Fed. P. Civ. P. 54(d) that “costs... **should** be allowed to the prevailing party (emphasis added).”²²⁶ As the court explained in Popeil Brothers v. Schick Electric, 516 F.2d 772 (7th Cir. 1975), “(i)f the awarding of costs could be thwarted every time the unsuccessful party is a normal, average party and not a knave, Rule 54(d) would have little substance remaining.” 516 F.2d at 776. Hence, “good faith litigation does not absolve a party from imposition of costs.”²²⁷ If costs were only taxable in those situations where the losing party acted in bad faith, 28 U.S.C. §1920 would have very little meaning.²²⁸ A Clerk's Taxation of Costs proceeding is simply not a forum for re-examining, or for re-litigating, the underlying facts of the lawsuit.²²⁹ Therefore, it is not a valid objection that the issues in the underlying case were closely contested and that the final judgment allegedly could have, or allegedly should have, gone in the other direction; the alleged complexity or closeness of the issues litigated is not relevant to the taxing of costs by the Court or Clerk.²³⁰ Accordingly, as stated previously, there is a **heavy presumption**²³¹ in favor of **“automatically”**²³² taxing those types of costs listed in 28 U.S.C. §1920²³³ which the prevailing parties both **actually incurred** (as evidenced by a sworn affidavit)²³⁴ and **necessarily incurred for their effective preparation** (judged in light of the situation existing when the costs in question were actually incurred, without regard to whether the costs relate to items which were actually used).²³⁵

We are of the view that the taxation plaintiffs have not rebutted the aforesaid heavy presumption in favor of the automatic taxing of district court costs, particularly in light of the Third Circuit's 2010 decision in Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010).²³⁶ We accordingly disallow this second general objection to the Holland bill of costs in its entirety.

The taxation plaintiffs' third general objection to the Holland bill of costs in its entirety is that the costs sought are allegedly not sufficiently explained. Provided that the bill of costs is neat and legible, there is no need for counsel to use the court's official bill of costs form;²³⁷

there is likewise no requirement for the prevailing party or parties to supply receipts²³⁸ (even in a situation where receipts or a more detailed itemization would be useful to the court and/or opposing counsel),²³⁹ rather, caselaw holds that the standard is that costs must be sufficiently explained to the extent that opposing counsel can make informed objections and the Clerk or Court can make an informed determination of whether requested costs are allowable.²⁴⁰

With regard to the items requested, we are of the view that this standard of sufficient itemization is satisfied in the instant case. As stated previously, there is a heavy presumption²⁴¹ in favor of “automatically”²⁴² taxing those types of costs listed in 28 U.S.C. §1920²⁴³ which the prevailing parties both actually incurred (as evidenced by a sworn affidavit)²⁴⁴ and necessarily incurred for their effective preparation (judged in light of the situation existing when the costs in question were actually incurred, without regard to whether the costs relate to items which were actually used).²⁴⁵

We are satisfied that the statutory standard of necessity has been met; moreover, the Holland bill of costs is accompanied by receipts and by an affidavit from counsel for stating, under penalty of perjury, that the costs are correct and were actually and necessarily incurred; the existence of such an affidavit in a Clerk's Taxation of Costs proceeding is given very great weight with respect to the aforesaid burden of proof in favor of the taxation of those types of costs listed in the taxation statute.²⁴⁶ We accordingly disallow this third general objection to the Holland bill of costs in its entirety.

The taxation plaintiffs' fourth general objection to the bill of costs in its entirety is that many of these costs were allegedly incurred as a result of bad faith on the part of the Holland defendants and/or their counsel during the underlying litigation. A request for taxation of 28 U.S.C. §1920 costs may be disallowed where there has been misconduct by the prevailing party during the litigation process which led to excessive costs;²⁴⁷ however, the said alleged misconduct must have been VERY, VERY BAD for this objection to prevail.²⁴⁸ We are not

of the view that the taxation plaintiffs have made such a demonstration, and we accordingly disallow this fourth general objection to the Holland bill of costs in its entirety.

Turning now to the substance of the bill of costs, we will first address the request for Holland defendants' alleged costs of deposition transcripts, relating to testimony of fact witnesses and/or expert witnesses,²⁴⁹ in the amount of in the amount of \$3,024.95.

We note that the relevant statute, 28 U.S.C. §1920(2), directs the taxing of costs for "transcripts necessarily obtained for use in the case." This provision governing "transcripts" applies to deposition transcripts;²⁵⁰ and modern caselaw states that both stenographic depositions and videotaped depositions are considered "transcripts" for purposes of 28 U.S.C. §1920(2),²⁵¹ moreover, the costs of exhibits attached to a deposition transcript are taxable pursuant to 28 U.S.C. §1920.²⁵²

As stated previously, there is a heavy presumption²⁵³ in favor of "**automatically**"²⁵⁴ taxing those types of costs listed in 28 U.S.C. §1920²⁵⁵ which the prevailing parties both **actually incurred** (as evidenced by a sworn affidavit)²⁵⁶ and **necessarily incurred for their effective preparation** (judged in light of the situation existing when the costs in question were actually incurred, without regard to whether the costs relate to items which were actually used).²⁵⁷ Examples of situations where deposition transcripts are seen as necessary for a party's effective preparation, even where they were not used, **include, but are not limited to**, situations involving deponents who ultimately do not testify at a trial;²⁵⁸ situations involving deponents who ultimately are not permitted by the court to testify at a trial;²⁵⁹ and situations where deposition transcripts were necessary to support, or to oppose, pre-trial motions²⁶⁰ and/or post-trial motions²⁶¹ (including motions seeking the entry of summary judgment,²⁶² and/or motions seeking the entry of a default judgment²⁶³ and/or motions seeking the entry of a judgment NOV²⁶⁴). Considering this definition of "necessary," especially in light of the complexity of the issues presented and **the amount of money at stake in the underlying civil action** from which this taxation opinion arose, it was clearly

“necessary” for to obtain multiple copies of these transcripts, including **both** stenographic copies of transcripts **and** videotaped copies of transcripts of the exact same testimony²⁶⁵ where obtaining both copies was necessary to counsel’s effective preparation (judged in light of the situation existing when the costs in question were actually incurred, without regard to whether the costs relate to items which were actually used).²⁶⁶

Indeed, to posit a completely hypothetical situation, if counsel for the Holland defendants did not obtain all of the deposition transcripts in question for which costs are sought, and if the Holland defendants subsequently did not prevail in the underlying litigation in this case, then counsel for the Holland defendants could conceivably have been accused of professional malpractice for having failed to obtain those deposition transcripts; consideration of the issues presented in this completely hypothetical situation provides strong evidence that these deposition transcript costs were necessarily incurred in this case within the meaning of 28 U.S.C. §1920, and that they are taxable by this Clerk²⁶⁷ (especially when combined with the presence of the aforesaid affidavit).

We are of the view that the taxation plaintiffs have not rebutted the aforesaid heavy presumption that these district court costs should be automatically taxed against them. These costs are accordingly taxed in favor of the Holland defendants and against the taxation plaintiffs in the full requested amount of \$3,024.95.

We will next address the request for the Holland defendants’ alleged costs of exemplification in the amount of \$192,373.87.

Federal courts have traditionally seen costs related to the production of copies of documentary evidence, such as records²⁶⁸ or other documents produced in discovery,²⁶⁹ as well as the costs of a subpoena duces tecum (also known as a records subpoena or a records deposition)²⁷⁰ as taxable costs pursuant to 28 U.S.C. §1920(4).

Likewise, federal courts have traditionally seen costs related to the production of copies of demonstrative evidence²⁷¹ (such as photos,²⁷² models,²⁷³ maps,²⁷⁴ blow-ups,²⁷⁵

charts,²⁷⁶ diagrams,²⁷⁷ computer graphics²⁷⁸ and the like) as taxable costs under 28 U.S.C. §1920(4).

The costs of hiring a private company that possesses the technology to search for, and/or to recreate, copies of evidence in electronic form, for the purpose of making the alleged facts contained in the exhibits more clear to the finder(s) of fact, are taxable as exemplification under 28 U.S.C. §1920(4),²⁷⁹ as generally, neither attorneys nor employees of attorneys are competent to conduct such a search, or to recreate such documents in paper format.²⁸⁰

As stated previously, there is a heavy presumption²⁸¹ in favor of **“automatically”**²⁸² taxing those types of costs listed in 28 U.S.C. §1920²⁸³ which the prevailing parties both **actually incurred** (as evidenced by a sworn affidavit)²⁸⁴ and **necessarily incurred for their effective preparation** (judged in light of the situation existing when the costs in question were actually incurred, without regard to whether the costs relate to items which were actually used).²⁸⁵ We are of the view that considering this definition of “necessary,” especially in light of the complexity of the issues presented and **the amount of money at stake in the underlying civil action** from which this taxation opinion arose, it was clearly “necessary” for counsel for the prevailing parties to incur these costs.

We are accordingly of the view that the taxation plaintiffs have not rebutted the aforesaid heavy presumption that these district court costs should be automatically taxed against them. We see no relevance in the fact that defense counsel did not provide the taxation plaintiffs with all of the evidence for which costs are requested. These costs are accordingly taxed in favor of the Holland defendants and against the taxation plaintiffs in the full requested amount of \$192,373.87.

In summary, district court costs are taxed in favor of the Holland defendants and against the taxation plaintiffs as follows:

Deposition transcript costs:	\$ 3,024.95
Exemplification costs:	<u>192,373.87</u>
TOTAL:	\$195,398.82

July 26, 2011
Date

Michael E. Kunz
MICHAEL E. KUNZ
CLERK OF COURT

1. Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995).

2. Under circumstances not relevant here, the clerk of the district court may also tax certain specific, narrowly defined appellate court costs at the express direction of the clerk of the appellate court, pursuant to the express language of Federal Rule of Appellate Procedure 39. This taxation opinion shall not address the issue of these types of costs.

Under circumstances not relevant here, the clerk of the district court may also tax certain specific, narrowly defined costs incurred before the United States Supreme Court at the express direction of the Clerk of the Supreme Court, pursuant to the express language of Rule 43 of the Rules of the Supreme Court. This taxation opinion shall not address the issue of these types of costs.

This taxation opinion shall also not address the issue of those types of district court costs which are taxable pursuant to Federal Rule of Civil Procedure 68. Rule 68 deals with certain specific, narrow and rare factual situations where certain costs are taxable only by the presiding district court judge, and not by the Clerk. A quick reading of Rule 68 will indicate that it is plainly, on its face, not applicable to the instant situation.

3. Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995).

4. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007).

5. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); McKenna v. City of Philadelphia, 582 F.3d 447 (3d Cir. 2009).

6. Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Lacovara v. Merrill Lynch, Pierce, Fenner & Smith, 102 F.R.D. 959 (E.D. Pa. 1984).

7. Under circumstances not relevant here, the clerk of the district court may also tax certain specific, narrowly defined appellate court costs at the express direction of the clerk of the appellate court, pursuant to the express language of Federal Rule of Appellate Procedure 39. This taxation opinion shall not address the issue of these types of costs.

Under circumstances not relevant here, the clerk of the district court may also tax certain specific, narrowly defined costs incurred before the United States Supreme Court at the express direction of the Clerk of the Supreme Court, pursuant to the express language of Rule 43 of the Rules of the Supreme Court. This taxation opinion shall not address the issue of these types of costs.

This taxation opinion shall also not address the issue of those types of district court costs which are taxable pursuant to Federal Rule of Civil Procedure 68. Rule 68 deals

with certain specific, narrow and rare factual situations where certain costs are taxable only by the presiding district court judge, and not by the Clerk. A quick reading of Rule 68 will indicate that it is plainly, on its face, not applicable to the instant situation.

8. Crawford Fitting Company v. J. T. Gibbons, Inc., 482 U.S. 437 (1987); Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007); Nugget Distributors Cooperative of America v. Mr. Nugget, Inc., 145 F.R.D. 54 (E.D.Pa. 1992). Accord, Perry v. Metro Suburban Bus Authority; 236 FRD 110 (EDNY 2006); Schmitz-Werke GMBH v. Rockland Industries, 271 F.Supp. 2d 734 (D. Maryland 2003); Roberts v. Interstate Distrib. Co., 242 F.Supp. 2d 850 (D. Oregon 2002); In Re: Glacier Bay, 746 F.Supp. 1379 (D. Alaska 1990).

9. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Nugget Distributors Cooperative of America v. Mr. Nugget, Inc., 145 F.R.D. 54 (E.D.Pa. 1992). Accord, Cook Children's Medical Center v. New England PPO Plan of Gen. Consol. Management, 491 F.3d 266 (5th Cir. 2007); Perry v. Metro Suburban Bus Authority; 236 F.R.D. 110 (EDNY 2006); Schmitz-Werke GMBH v. Rockland Industries, 271 F.Supp. 2d 734 (D. Maryland 2003); Roberts v. Interstate Distrib. Co., 242 F.Supp. 2d 850 (D. Oregon 2002); US v. Bedford Associates, 548 F.Supp. 748 (SDNY 1982).

10. Crawford Fitting Company v. J. T. Gibbons, Inc., 482 U.S. 437 (1987). Accord, Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988).

11. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000).

12. Delta Air Lines, Inc. v. August, 450 U.S. 346, 353 (1981).

13. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). Accord, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3d Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

14. Buchanan v. Stanships, Inc., 485 U.S. 265, 268 (1988)(emphasis added). Accord, Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). See, also, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

15. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). Accord, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

16. Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981); Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998). Accord, In Re: Air Crash Disaster at John F. Kennedy International Airport on June 24, 1975, 687 F.2d 626 (2nd Cir. 1982); In Re: Glacier Bay, 746 F.Supp. 1379 (D. Alaska 1990).

17. Chambers v. NASCO, Inc., 501 U.S. 32 (1991); Alyeska Pipeline Service Co. v. Wilderness Society, 421 U.S. 240 (1975).

18. Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007); Montgomery County v. Microvote Corp., 2004 WL 1087196 (EDPA 2004); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998). Accord, McGuigan v. CAE Link Corp., 155 F.R.D. 31 (NDNY 1994).

19. Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897, 926 (3d Cir.

1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007).

20 . Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010).

21 . Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Pearlstine v. United States, 649 F.2d 194 (3d Cir. 1981); ADM Corp. v. Speedmaster Packaging Corp., 525 F.2d 662, (3d Cir. 1975); Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007). Accord, In Re Olympia Brewing Co. Securities Litigation, 613 F.Supp. 1286, 1302 (N.D.Ill. 1985).

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23 . Brazos Valley Coalition for Life, Inc. v. City of Bryan, Texas, 421 F.3d 314 (5th Cir. 2005); Trepel v. Roadway Express, Inc., 266 F.3d 418 (6th Cir. 2001); Holmes v. Cessna Aircraft Co., 11 F.3d 63 (5th Cir. 1994); Dovenmuehle v. Gilldorn Mortgage Midwest Corp., 871 F.2d 697 (7th Cir. 1989); Mason v. Belieu, 543 F.2d 215 (D.C. Cir. 1976); Wahl v. Carrier Manufacturing Co., 511 F.2d 209 (7th Cir. 1975); McInnis v. Town of Weston, 458 F.Supp.2d 7 (D. Conn. 2006); Sullivan v. Cheshier, 991 F.Supp. 999 (N.D. Ill. 1998); Hollenbeck v. Falstaff Brewing Corp., 605 F.Supp. 421 (E.D. Mo. 1984); Morrissey v. County Tower Corp., 568 F.Supp. 980 (E.D. Mo. 1983).

24 . Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010).

25 . Reger v. The Nemours Foundation, 599 F.3d 285, 289 Footnote 3 (3d Cir. 2010) (emphasis added).

26 . Delta Air Lines, Inc. v. August, 450 U.S. 346, 353 (1981).

27 . Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981).

28 . Buchanan v. Stanships, Inc., 485 U.S. 265, 268 (1988)(emphasis added). Accord, Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981).

29 . Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981); Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v.

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31. Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (ED Pa. 1977).

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33. Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007). Accord, Washington v. Patlis, 916 F.2d 1036 (5th Cir. 1990); Chevrette v. Marks, 558 F.Supp. 1133 (M.D. Pa. 1983).

34. Accord, In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (ED Pa. 1998).

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36. Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988). Accord, McGuigan v. CAE Link Corp., 155 F.R.D. 31 (NDNY 1994).

37. Maldonado v. Parasole, 66 F.R.D. 388,390 (EDNY 1975). Accord, Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (ED Pa. 1998). See, also, McGuigan v. Cae Lank Corp., 155 F.R.D. 31 (NDNY 1994); Phillips v. Cameron Tool Corp., 131 F.R.D. 151 (SD Ind. 1990).

38. Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988). See, also, Popeil Brothers v. Schick Electric, 516 F.2d 772 (7th Cir. 1975); McGuigan v. Cae Lank Corp., 155 F.R.D. 31 (NDNY 1994); Phillips v. Cameron Tool Corp., 131 F.R.D. 151 (S D. Ind. 1990); Maldonado v. Parasole, 66 F.R.D. 388,390 (EDNY 1975).

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40. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (ED Pa. 1998). Accord, McGuigan v. Cae Lank Corp., 155 F.R.D. 31 (NDNY 1994); Phillips v. Cameron Tool Corp., 131 F.R.D. 151 (S D. Ind. 1990); Maldonado v. Parasole, 66 F.R.D. 388,390 (EDNY 1975).

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42. Buchanan v. Stanships, Inc., 485 U.S. 265, 268 (1988)(emphasis added). Accord, Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). See, also, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

43. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). Accord, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v.

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46 . Accord, In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (ED Pa. 1998).

47 . Women's Federal Savings and Loan Association of Cleveland v. Nevada National Bank, 108 F.R.D. 396 (D. Nevada 1985).

48 . McInnis v. Town of Weston, 458 F.Supp.2d 7 (D. Conn 2006); Sullivan v. Cheshier, 991 F.Supp. (ND Ill. 1998); McGuigan v. CAE Link Corp., 155 F.R.D. 31 (NDNY 1994).

49 . McInnis v. Town of Weston, 458 F.Supp.2d 7 (D. Conn 2006).

50 . Harkins v. Riverboat Services, 286 F.Supp. 2d 976 (ND Ill. 2003), aff'd, 385 F.3d 1099 (7th Cir. 2004); McGuigan v. CAE Link Corp., 155 F.R.D. 31 (N.D.N.Y. 1994); Morrissey v. County Tower Corp., 568 F. Supp. 980 (E.D. Mo. 1983); Harceg v. Brown, 536 F.Supp. 125 (N.D. Ill. 1982). Accord, Seidman v. American Mobile Systems, 965 F.Supp. 612 (E.D. Pa. 1997).

51 . Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). Accord, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d

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52. Buchanan v. Stanships, Inc., 485 U.S. 265, 268 (1988)(emphasis added). Accord, Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). See also, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3d Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

53. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). Accord, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3d Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

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55. In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); In Re: Kulicke & Soffa Industries Inc. Securities Litigation, 747 F.Supp. 1136 (E.D.Pa. 1990), aff'd, 944 F.2d 897 (3d Cir. 1991); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); Nugget Distributors Cooperative of America v. Mr. Nugget, Inc., 145 F.R.D. 54 (E.D.Pa. 1992). Accord, Charter Medical Corp v. Cardin, 127 FRD 111 (D. Maryland 1989); Women's Federal Savings and Loan Association of Cleveland v.

Nevada National Bank, 108 FRD 396 (D. Nevada 1985); International Wood Processors v. Power Dry, Inc., 598 F. Supp. 299 (D.S.C. 1984); Morrissey v. County Tower Corp., 568 F.Supp. 178 (ED Mo. 1983).

56. Brazos Valley Coalition for Life, Inc. v. City of Bryan, Texas, 421 F.3d 314 (5th Cir. 2005); Trepel v. Roadway Express, Inc., 266 F.3d 418 (6th Cir. 2001); Holmes v. Cessna Aircraft Co., 11 F.3d 63 (5th Cir. 1994); Dovenmuehle v. Gilldorn Mortgage Midwest Corp., 871 F.2d 697 (7th Cir. 1989); Mason v. Belieu, 543 F.2d 215 (D.C. Cir. 1976); Wahl v. Carrier Manufacturing Co., 511 F.2d 209 (7th Cir. 1975); McInnis v. Town of Weston, 458 F.Supp.2d 7 (D. Conn. 2006); Sullivan v. Cheshier, 991 F.Supp. 999 (N.D. Ill. 1998); Hollenbeck v. Falstaff Brewing Corp., 605 F.Supp. 421 (E.D. Mo. 1984); Morrissey v. County Tower Corp., 568 F.Supp. 980 (E.D. Mo. 1983).

57. Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010).

58. In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897, 926 (3rd Cir. 1985); ADM. Corp. v. Speedmaster Packaging Corp., 525 F.2d 662, 664 (3rd Cir. 1975). Accord, Johnson v. Holway, 522 F.Supp.2d 12 (D.D.C. 2007).

59. Although 28 U.S.C. §1920 does limit the payment of fees to an expert witness for that expert's testimony, there are no limits under 28 U.S.C. §1920 on the payment of fees to a court reporter in connection to recording or transcribing an expert's testimony.

60. In Re: Kulicke & Soffa Industries, Inc. Securities Litigation, 747 F.Supp. 1136 (ED Pa. 1990) aff'd 944 F.2d 897 (3rd Cir. 1991); Montgomery County v. Microvote Corp., 2004 WL 1087196 (EDPA 2004); Nugget Distributors Cooperative v. Mr. Nugget, Inc., 145 FRD 54 (ED Pa. 1992). Accord, McGuigan v. CAE Link Corp., 155 F.R.D. 31 (NDNY 1994).

61. BDT Products, Inc. v. Lexmark International, Inc., 405 F.3d 415 (6th Cir. 2005); Tilton v. Capital Cities/ABC Inc., 115 F.3d 1471 (10th Cir. 1997); Morrison v. Reichhold Chems., 97 F.3d 460 (11th Cir. 1996); Commercial Credit Equipment Corp. v. Stamps, 920 F.2d 1361 (7th Cir. 1990); Rio Props v. Stewart Annoyances, Ltd., 420 F.Supp. 2d 1127 (D. Nevada 2006); United International Holdings v. Wharf, Ltd., 174 F.R.D. 479 (D. Colo. 1997); Garonzik v. Whitman Diner, 910 F.Supp 167 (D.N.J. 1995); McGuigan v. CAE Link Corp., 155 F.R.D. 31 (NDNY 1994); Weseloh-Hurtig v. Hepker, 152 F.R.D. 198 (D. Kansas 1993); Deaton v. Dreis & Krump Mfg. Co. (ND Ohio 1991).

62. Johnson v. Holway, 522 F.Supp. 2d 12 (DDC 2007).

63. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). Accord, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v.

Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

64 . Buchanan v. Stanships, Inc., 485 U.S. 265, 268 (1988)(emphasis added). Accord, Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). See also, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

65 . Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). Accord, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

66 . Brazos Valley Coalition for Life, Inc. v. City of Bryan, Texas, 421 F.3d 314 (5th Cir. 2005); Trepel v. Roadway Express, Inc., 266 F.3d 418 (6th Cir. 2001); Holmes v. Cessna Aircraft Co., 11 F.3d 63 (5th Cir. 1994); Dovenmuehle v. Gildorn Mortgage Midwest Corp., 871 F.2d 697 (7th Cir. 1989); Mason v. Belieu, 543 F.2d 215 (D.C. Cir. 1976); Wahl v. Carrier Manufacturing Co., 511 F.2d 209 (7th Cir. 1975); McInnis v. Town of Weston, 458 F.Supp.2d 7 (D. Conn. 2006); Sullivan v. Cheshier, 991 F.Supp. 999 (N.D. Ill. 1998); Hollenbeck v. Falstaff Brewing Corp., 605 F.Supp. 421 (E.D. Mo. 1984); Morrissey v. County Tower Corp., 568 F.Supp. 980 (E.D. Mo. 1983).

67 . In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3rd Cir. 2000); In Re: Kulicke & Soffa Industries Inc. Securities Litigation, 747 F.Supp. 1136 (E.D.Pa. 1990), aff'd, 944 F.2d 897 (3rd Cir. 1991); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); Nugget Distributors Cooperative of America v. Mr. Nugget, Inc., 145 F.R.D. 54 (E.D.Pa. 1992). Accord, Charter Medical Corp v. Cardin, 127 FRD 111 (D. Maryland 1989); Women's Federal Savings and Loan Association of Cleveland v. Nevada National Bank, 108 FRD 396 (D. Nevada 1985); International Wood Processors v. Power Dry, Inc., 598 F. Supp. 299 (D.S.C. 1984); Morrissey v. County Tower Corp., 568 F.Supp. 178 (ED Mo. 1983).

- 68 . In Re: Kulicke & Soffa Industries, Inc. Securities Litigation, 747 F.Supp. 1136 (ED Pa. 1990) aff'd 944 F.2d 897 (3rd Cir. 1991).
- 69 . Sullivan v. Cheshire, 991 F.Supp. 999 (ND Ill. 1998).
- 70 . In Re: Kulicke & Soffa Industries Inc. Securities Litigation, 747 F.Supp. 1136 (E.D.Pa. 1990), aff'd, 944 F.2d 897 (3rd Cir. 1991).
- 71 . In Re: Kulicke & Soffa Industries Inc. Securities Litigation, 747 F.Supp. 1136 (E.D.Pa. 1990), aff'd, 944 F.2d 897 (3rd Cir. 1991).
- 72 . Mitchell v. City of Moore, Oklahoma, 218 F.3d 1190 (10th Cir. 2000); Stearns Airport Equipment Co., Inc. v. FMC Corporation, 170 F.3d 518 (5th Cir. 1999); Cengr v. Fusibond Piping Systems, Inc., 135 F.3d 445 (7th Cir. 1998); Sevenson Environmental Services, Inc. v. Shaw Environmental, Inc., 246 F.R.D. 154 (WDNY 2007); Yasui v. Maui Electric Company, 78 F.Supp.2d 1124 (D. Hawaii 1999).
- 73 . LaVay Corporation v. Dominion Federal Savings and Loan, 830 F.2d 522 (4th Cir. 1987).
- 74 . Neumann v. Reinforced Earth Company, 109 FRD 698 (DDC 1986).
- 75 . BDT Products, Inc. v. Lexmark International, Inc., 405 F.3d 415 (6th Cir. 2005); Tilton v. Capital Cities/ABC, Inc., 115 F.3d 1471 (10th Cir. 1997).
- 76 . In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3rd Cir. 2000); In Re: Kulicke & Soffa Industries Inc. Securities Litigation, 747 F.Supp. 1136 (E.D.Pa. 1990), aff'd, 944 F.2d 897 (3rd Cir. 1991); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3^d Cir. 1975); Nugget Distributors Cooperative of America v. Mr. Nugget, Inc., 145 F.R.D. 54 (E.D.Pa. 1992). Accord, Charter Medical Corp v. Cardin, 127 FRD 111 (D. Maryland 1989); Women's Federal Savings and Loan Association of Cleveland v. Nevada National Bank, 108 FRD 396 (D. Nevada 1985); International Wood Processors v. Power Dry, Inc., 598 F. Supp. 299 (D.S.C. 1984); Morrissey v. County Tower Corp., 568 F.Supp. 178 (ED Mo. 1983).
- 77 . Bruno v. Western Electric Co., 618 F.Supp. 398 (D. Colorado 1985).
- 78 . Smith v. Tenet Healthsystems SL, Inc., 436 F.3d 879 (8th Cir. 2006).
- 79 . Helms v. WalMart Stores, Inc., 808 F.Supp. 1568 (ND Ga. 1992), aff'd 998 F.2d 1023 (11th Cir. 1993); Haagen-Dazs Co. v. Rainbow Gourmet Ice Creams, Inc., 920 F.2d 587 (9th Cir. 1990); Rodriguez-Garcia v. Davila, 904 F.2d 90 (1st Cir. 1990); Allen v. United States Steel Corp., 665 F.2d 689 (5th Cir. 1982); McGuigan v. CAE Link Corp., 155 FRD 31 (NDNY 1994); Nelson v. Darragh Co., 120 FRD 517 (WD Ark. 1988); Meadows v. Ford Motor Co., 62 FRD 98 (WD Ky. 1973); Gillam v. A. Shyman, Inc., 31 FRD 271 (D. Alaska 1962).

- 80 . Montgomery County v. Microvote Corp., 2004 WL 1087196 (EDPA 2004); McGuigan v. CAE Link Corp., 155 FRD 31 (NDNY 1994).
- 81 . In re: Kulicke and Sofa Industries Securities Litigation, 747 F.Supp. 1136 (ED Pa. 1990); aff'd, 944 F.2d 897 (3rd Cir. 1991). Accord, Soler v. McHenry, 771 F.Supp. 252 (ND Ill. 1991), aff'd, 989 F.2d 251 (7th Cir. 1993); Maxwell v. Hapag-Lloyd Aktiengesellschaft, 862 F.2d 767 (9th Cir. 1988); Nissho-Iwai Co. v. Occidental Crude Sales, Ltd., 729 F.2d 1530 (5th Cir. 1984); DiBella v. Hopkins, 407 F.Supp. 2d 537 (SDNY 2005); Jensen v. Lawler, 338 F.Supp. 2d 739 (SD Texas 2004); United Intern. Holdings, Inc. v. Wharf (Holdings) Ltd., 174 FRD 479 (D. Colo. 1997); Phillips v. Cameron Tool Corp., 131 F.R.D. 151 (SD Ind. 1990).
- 82 . Soler v. McHenry, 771 F.Supp. 252 (ND Ill. 1991), aff'd, 989 F.2d 251 (7th Cir. 1993); Maxwell v. Hapag-Lloyd Aktiengesellschaft, 862 F.2d 767 (9th Cir. 1988); In Re: Air Crash Disaster at John F. Kennedy International Airport on June 24, 1975, 687 F.2d 626 (2nd Cir. 1982); Jensen v. Lawler, 338 F.Supp. 2d 739 (SD Texas 2004); United Intern. Holdings, Inc. v. Wharf (Holdings) Ltd., 174 FRD 479 (D. Colo. 1997).
- 83 . Jensen v. Lawler, 338 F.Supp. 2d 739 (SD Texas 2004).
- 84 . In Re: Air Crash Disaster at John F. Kennedy International Airport on June 24, 1975, 687 F.2d 626 (2nd Cir. 1982).
- 85 . Soler v. McHenry, 771 F.Supp. 252 (ND Ill. 1991); aff'd, 989 F.2d 251 (7th Cir. 1993); Nissho-Iwai Co. v. Occidental Crude Sales, Ltd., 729 F.2d 1530 (5th Cir. 1984); DiBella v. Hopkins, 407 F.Supp. 2d 537 (SDNY 2005); Jensen v. Lawler, 338 F.Supp. 2d 739 (SD Texas 2004).
- 86 . In Re: Air Crash Disaster at John F. Kennedy International Airport on June 24, 1975, 687 F.2d 626 (2nd Cir. 1982); DiBella v. Hopkins, 407 F.Supp.2d 537 (SDNY 2005); United Intern. Holdings, Inc. v. Wharf (Holdings) Ltd., 174 FRD 479 (D. Colo. 1997).
- 87 . Phillips v. Cameron Tool Corp., 131 FRD 151 (SD Ind. 1990).
- 88 . DiBella v. Hopkins, 407 F.Supp.2d 537 (SDNY 2005).
- 89 . BDT Products, Inc. V. Lexmark International, Inc., 405 F.3d 415 (6th Cir. 2005); Tilton v. Capital Cities/ABC, Inc., 115 F.3d 1471 (10th Cir. 1997); CBT Flint Partners, LLC. v. Return Path, Inc., 676 F.Supp.2d 1376 (N.D. Ga. 2009); Brown v. The McGraw-Hill Companies, Inc., 526 F.Supp.2d 950 (N.D. Iowa 2007).
- 90 . CBT Flint Partners, LLC. v. Return Path, Inc., 676 F.Supp.2d 1376 (ND Ga. 2009).
- 91 . Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). Accord, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized

Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

92 . Buchanan v. Stanships, Inc., 485 U.S. 265, 268 (1988)(emphasis added). Accord, Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). See also, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

93 . Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). Accord, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

94 . Brazos Valley Coalition for Life, Inc. v. City of Bryan, Texas, 421 F.3d 314 (5th Cir. 2005); Trepel v. Roadway Express, Inc., 266 F.3d 418 (6th Cir. 2001); Holmes v. Cessna Aircraft Co., 11 F.3d 63 (5th Cir. 1994); Dovenmuehle v. Gildorn Mortgage Midwest Corp., 871 F.2d 697 (7th Cir. 1989); Mason v. Belieu, 543 F.2d 215 (D.C. Cir. 1976); Wahl v. Carrier Manufacturing Co., 511 F.2d 209 (7th Cir. 1975); McInnis v. Town of Weston, 458 F.Supp.2d 7 (D. Conn. 2006); Sullivan v. Cheshier, 991 F.Supp. 999 (N.D. Ill. 1998); Hollenbeck v. Falstaff Brewing Corp., 605 F.Supp. 421 (E.D. Mo. 1984); Morrissey v. County Tower Corp., 568 F.Supp. 980 (E.D. Mo. 1983).

95 . In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3rd Cir. 2000); In Re: Kulicke & Soffa Industries Inc. Securities Litigation, 747 F.Supp. 1136 (E.D.Pa. 1990), aff'd, 944 F.2d 897 (3rd Cir. 1991); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); Nugget Distributors Cooperative of America v. Mr. Nugget, Inc., 145 F.R.D. 54 (E.D.Pa. 1992). Accord, Charter Medical Corp v. Cardin, 127 FRD 111 (D. Maryland 1989); Women's Federal Savings and Loan Association of Cleveland v. Nevada National Bank, 108 FRD 396 (D. Nevada 1985); International Wood

Processors v. Power Dry, Inc., 598 F. Supp. 299 (D.S.C. 1984); Morrissey v. County Tower Corp., 568 F.Supp. 178 (ED Mo. 1983).

96 . Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995).

97 . Under circumstances not relevant here, the clerk of the district court may also tax certain specific, narrowly defined appellate court costs at the express direction of the clerk of the appellate court, pursuant to the express language of Federal Rule of Appellate Procedure 39. This taxation opinion shall not address the issue of these types of costs.

Under circumstances not relevant here, the clerk of the district court may also tax certain specific, narrowly defined costs incurred before the United States Supreme Court at the express direction of the Clerk of the Supreme Court, pursuant to the express language of Rule 43 of the Rules of the Supreme Court. This taxation opinion shall not address the issue of these types of costs.

This taxation opinion shall also not address the issue of those types of district court costs which are taxable pursuant to Federal Rule of Civil Procedure 68. Rule 68 deals with certain specific, narrow and rare factual situations where certain costs are taxable only by the presiding district court judge, and not by the Clerk. A quick reading of Rule 68 will indicate that it is plainly, on its face, not applicable to the instant situation.

98 . Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995).

99 . Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007).

100 . Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); McKenna v. City of Philadelphia, 582 F.3d 447 (3d Cir. 2009).

101 . Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Lacovara v. Merrill Lynch, Pierce, Fenner & Smith, 102 F.R.D. 959 (E.D. Pa. 1984).

102 . Under circumstances not relevant here, the clerk of the district court may also tax certain specific, narrowly defined appellate court costs at the express direction of the clerk of the appellate court, pursuant to the express language of Federal Rule of Appellate Procedure 39. This taxation opinion shall not address the issue of these types of costs.

Under circumstances not relevant here, the clerk of the district court may also tax certain specific, narrowly defined costs incurred before the United States Supreme Court at the express direction of the Clerk of the Supreme Court, pursuant to the express language of Rule 43 of the Rules of the Supreme Court. This taxation opinion shall not address the issue of these types of costs.

This taxation opinion shall also not address the issue of those types of district court costs which are taxable pursuant to Federal Rule of Civil Procedure 68. Rule 68 deals with certain specific, narrow and rare factual situations where certain costs are taxable only by the presiding district court judge, and not by the Clerk. A quick reading of Rule 68 will indicate that it is plainly, on its face, not applicable to the instant situation.

103. Crawford Fitting Company v. J. T. Gibbons, Inc., 482 U.S. 437 (1987); Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007); Nugget Distributors Cooperative of America v. Mr. Nugget, Inc., 145 F.R.D. 54 (E.D.Pa. 1992). Accord, Perry v. Metro Suburban Bus Authority; 236 FRD 110 (EDNY 2006); Schmitz-Werke GMBH v. Rockland Industries, 271 F.Supp. 2d 734 (D. Maryland 2003); Roberts v. Interstate Distrib. Co., 242 F.Supp. 2d 850 (D. Oregon 2002); In Re: Glacier Bay, 746 F.Supp. 1379 (D. Alaska 1990).

104. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Nugget Distributors Cooperative of America v. Mr. Nugget, Inc., 145 F.R.D. 54 (E.D.Pa. 1992). Accord, Cook Children's Medical Center v. New England PPO Plan of Gen. Consol. Management, 491 F.3d 266 (5th Cir. 2007); Perry v. Metro Suburban Bus Authority; 236 F.R.D. 110 (EDNY 2006); Schmitz-Werke GMBH v. Rockland Industries, 271 F.Supp. 2d 734 (D. Maryland 2003); Roberts v. Interstate Distrib. Co., 242 F.Supp. 2d 850 (D. Oregon 2002); US v. Bedford Associates, 548 F.Supp. 748 (SDNY 1982).

105. Crawford Fitting Company v. J. T. Gibbons, Inc., 482 U.S. 437 (1987). Accord, Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988).

106. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000).

107. Delta Air Lines, Inc. v. August, 450 U.S. 346, 353 (1981).

108. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). Accord, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

109. Buchanan v. Stanships, Inc., 485 U.S. 265, 268 (1988)(emphasis added). Accord, Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). See, also, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

110. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). Accord, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

111. Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981); Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998). Accord, In Re: Air Crash Disaster at John F. Kennedy International Airport on June 24, 1975, 687 F.2d 626 (2nd Cir. 1982); In Re: Glacier Bay, 746 F.Supp. 1379 (D. Alaska 1990).

112. Chambers v. NASCO, Inc., 501 U.S. 32 (1991); Alyeska Pipeline Service Co. v. Wilderness Society, 421 U.S. 240 (1975).

113. Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007); Montgomery County v. Microvote Corp., 2004 WL 1087196 (EDPA 2004); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998). Accord, McGuigan v. CAE Link Corp., 155 F.R.D. 31 (NDNY 1994).

114. Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897, 926 (3d Cir.

1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007).

115. Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010).

116. Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); ADM Corp. v. Speedmaster Packaging Corp., 525 F.2d 662, (3rd Cir. 1975); Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007). Accord, In Re Olympia Brewing Co. Securities Litigation, 613 F.Supp. 1286, 1302 (N.D.Ill. 1985).

117. In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3rd Cir. 2000); In Re: Kulicke & Soffa Industries Inc. Securities Litigation, 747 F.Supp. 1136 (E.D.Pa. 1990), aff'd, 944 F.2d 897 (3rd Cir. 1991); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007); Nugget Distributors Cooperative of America v. Mr. Nugget, Inc., 145 F.R.D. 54 (E.D.Pa. 1992). Accord, Charter Medical Corp v. Cardin, 127 FRD 111 (D. Maryland 1989); Women's Federal Savings and Loan Association of Cleveland v. Nevada National Bank, 108 FRD 396 (D. Nevada 1985); International Wood Processors v. Power Dry, Inc., 598 F. Supp. 299 (D.S.C. 1984); Morrissey v. County Tower Corp., 568 F.Supp. 178 (ED Mo. 1983).

118. Brazos Valley Coalition for Life, Inc. v. City of Bryan, Texas, 421 F.3d 314 (5th Cir. 2005); Trepel v. Roadway Express, Inc., 266 F.3d 418 (6th Cir. 2001); Holmes v. Cessna Aircraft Co., 11 F.3d 63 (5th Cir. 1994); Dovenmuehle v. Gilldorn Mortgage Midwest Corp., 871 F.2d 697 (7th Cir. 1989); Mason v. Belieu, 543 F.2d 215 (D.C. Cir. 1976); Wahl v. Carrier Manufacturing Co., 511 F.2d 209 (7th Cir. 1975); McInnis v. Town of Weston, 458 F.Supp.2d 7 (D. Conn. 2006); Sullivan v. Cheshier, 991 F.Supp. 999 (N.D. Ill. 1998); Hollenbeck v. Falstaff Brewing Corp., 605 F.Supp. 421 (E.D. Mo. 1984); Morrissey v. County Tower Corp., 568 F.Supp. 980 (E.D. Mo. 1983).

119. Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010).

120. Reger v. The Nemours Foundation, 599 F.3d 285, 289 Footnote 3 (3d Cir. 2010) (emphasis added).

121. Delta Air Lines, Inc. v. August, 450 U.S. 346, 353 (1981).

122. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981).

123. Buchanan v. Stanships, Inc., 485 U.S. 265, 268 (1988)(emphasis added). Accord, Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981).

124. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981); Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v.

Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstone v. United States, 649 F.2d 194 (3d Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

125. Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (ED Pa. 1977). Accord, Matthew v. Crosby, 480 F.3d 1265 (11th Cir. 2007); Weaver v. Toombs, 948 F.2d 1004 (6th Cir. 1991); Perry v. Metro Suburban Bus Authority, 236 FRD 110 (EDNY 2006).

126. Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (ED Pa. 1977).

127. Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (ED Pa. 1998).

128. Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007). Accord, Washington v. Patlis, 916 F.2d 1036 (5th Cir. 1990); Chevrette v. Marks, 558 F.Supp. 1133 (M.D. Pa. 1983).

129. Accord, In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (ED Pa. 1998).

130. Reger v. The Nemours Foundation, 599 F.3d 285, 289 Footnote 3 (3d Cir. 2010) (emphasis added).

131. Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988). Accord, McGuigan v. CAE Link Corp., 155 F.R.D. 31 (NDNY 1994).

132. Maldonado v. Parasole, 66 F.R.D. 388,390 (EDNY 1975). Accord, Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (ED Pa. 1998). See, also, McGuigan v. Cae Lank Corp., 155 F.R.D. 31 (NDNY 1994); Phillips v. Cameron Tool Corp., 131 F.R.D. 151 (SD Ind. 1990).

133. Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988). See, also, Popeil Brothers v. Schick Electric, 516 F.2d 772 (7th Cir. 1975); McGuigan v. Cae Lank Corp., 155 F.R.D. 31 (NDNY 1994); Phillips v. Cameron Tool Corp., 131 F.R.D. 151 (S D. Ind. 1990); Maldonado v. Parasole, 66 F.R.D. 388,390 (EDNY 1975).

134. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010). Accord, Samaad v. City of Dallas, 922 F.2d 216 (5th Cir. 1991).

135. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998). Accord, McGuigan v. Cae Lank Corp., 155 F.R.D. 31 (NDNY 1994); Phillips v. Cameron Tool Corp., 131 F.R.D. 151 (S D. Ind. 1990); Maldonado v. Parasole, 66 F.R.D. 388,390 (EDNY 1975).

136. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). Accord, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

137. Buchanan v. Stanships, Inc., 485 U.S. 265, 268 (1988)(emphasis added). Accord, Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). See, also, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

138. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). Accord, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v.

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139 . Brazos Valley Coalition for Life, Inc. v. City of Bryan, Texas, 421 F.3d 314 (5th Cir. 2005); Trepel v. Roadway Express, Inc., 266 F.3d 418 (6th Cir. 2001); Holmes v. Cessna Aircraft Co., 11 F.3d 63 (5th Cir. 1994); Dovenmuehle v. Gilldorn Mortgage Midwest Corp., 871 F.2d 697 (7th Cir. 1989); Mason v. Belieu, 543 F.2d 215 (D.C. Cir. 1976); Wahl v. Carrier Manufacturing Co., 511 F.2d 209 (7th Cir. 1975); McInnis v. Town of Weston, 458 F.Supp.2d 7 (D. Conn. 2006); Sullivan v. Cheshier, 991 F.Supp. 999 (N.D. Ill. 1998); Hollenbeck v. Falstaff Brewing Corp., 605 F.Supp. 421 (E.D. Mo. 1984); Morrissey v. County Tower Corp., 568 F.Supp. 980 (E.D. Mo. 1983).

140 . In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3rd Cir. 2000); In Re: Kulicke & Soffa Industries Inc. Securities Litigation, 747 F.Supp. 1136 (E.D.Pa. 1990), aff'd, 944 F.2d 897 (3rd Cir. 1991); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007); Nugget Distributors Cooperative of America v. Mr. Nugget, Inc., 145 F.R.D. 54 (E.D.Pa. 1992). Accord, Charter Medical Corp v. Cardin, 127 FRD 111 (D. Maryland 1989); Women's Federal Savings and Loan Association of Cleveland v. Nevada National Bank, 108 FRD 396 (D. Nevada 1985); International Wood Processors v. Power Dry, Inc., 598 F. Supp. 299 (D.S.C. 1984); Morrissey v. County Tower Corp., 568 F.Supp. 178 (ED Mo. 1983).

141 . Accord, In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (ED Pa. 1998).

142 . Women's Federal Savings and Loan Association of Cleveland v. Nevada National Bank, 108 F.R.D. 396 (D. Nevada 1985).

143 . McInnis v. Town of Weston, 458 F.Supp.2d 7 (D. Conn 2006); Sullivan v. Cheshier, 991 F.Supp. (ND Ill. 1998); McGuigan v. CAE Link Corp., 155 F.R.D. 31 (NDNY 1994).

144 . McInnis v. Town of Weston, 458 F.Supp.2d 7 (D. Conn 2006).

145 . Harkins v. Riverboat Services, 286 F.Supp. 2d 976 (ND Ill. 2003), aff'd, 385 F.3d 1099 (7th Cir. 2004); McGuigan v. CAE Link Corp., 155 F.R.D. 31 (N.D.N.Y. 1994); Morrissey v. County Tower Corp., 568 F. Supp. 980 (E.D. Mo. 1983); Harceg v. Brown, 536 F.Supp. 125 (N.D. Ill. 1982). Accord, Seidman v. American Mobile Systems, 965 F.Supp. 612 (E.D. Pa. 1997).

146 . Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). Accord, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000);

Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

147. Buchanan v. Stanships, Inc., 485 U.S. 265, 268 (1988)(emphasis added). Accord, Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). See, also, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

148. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). Accord, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

149. Brazos Valley Coalition for Life, Inc. v. City of Bryan, Texas, 421 F.3d 314 (5th Cir. 2005); Trepel v. Roadway Express, Inc., 266 F.3d 418 (6th Cir. 2001); Holmes v. Cessna Aircraft Co., 11 F.3d 63 (5th Cir. 1994); Dovenmuehle v. Gildorn Mortgage Midwest Corp., 871 F.2d 697 (7th Cir. 1989); Mason v. Belieu, 543 F.2d 215 (D.C. Cir. 1976); Wahl v. Carrier Manufacturing Co., 511 F.2d 209 (7th Cir. 1975); McInnis v. Town of Weston, 458 F.Supp.2d 7 (D. Conn. 2006); Sullivan v. Cheshier, 991 F.Supp. 999 (N.D. Ill. 1998); Hollenbeck v. Falstaff Brewing Corp., 605 F.Supp. 421 (E.D. Mo. 1984); Morrissey v. County Tower Corp., 568 F.Supp. 980 (E.D. Mo. 1983).

150. In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3rd Cir. 2000); In Re: Kulicke & Soffa Industries Inc. Securities Litigation, 747 F.Supp. 1136 (E.D.Pa. 1990), aff'd, 944 F.2d 897 (3rd Cir. 1991); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); Nugget Distributors Cooperative of America v. Mr. Nugget, Inc., 145 F.R.D. 54 (E.D.Pa. 1992). Accord, Charter Medical Corp v. Cardin, 127 FRD 111

(D. Maryland 1989); Women's Federal Savings and Loan Association of Cleveland v. Nevada National Bank, 108 FRD 396 (D. Nevada 1985); International Wood Processors v. Power Dry, Inc., 598 F. Supp. 299 (D.S.C. 1984); Morrissey v. County Tower Corp., 568 F.Supp. 178 (ED Mo. 1983).

151. Brazos Valley Coalition for Life, Inc. v. City of Bryan, Texas, 421 F.3d 314 (5th Cir. 2005); Trepel v. Roadway Express, Inc., 266 F.3d 418 (6th Cir. 2001); Holmes v. Cessna Aircraft Co., 11 F.3d 63 (5th Cir. 1994); Dovenmuehle v. Gilldorn Mortgage Midwest Corp., 871 F.2d 697 (7th Cir. 1989); Mason v. Belieu, 543 F.2d 215 (D.C. Cir. 1976); Wahl v. Carrier Manufacturing Co., 511 F.2d 209 (7th Cir. 1975); McInnis v. Town of Weston, 458 F.Supp.2d 7 (D. Conn. 2006); Sullivan v. Cheshier, 991 F.Supp. 999 (N.D. Ill. 1998); Hollenbeck v. Falstaff Brewing Corp., 605 F.Supp. 421 (E.D. Mo. 1984); Morrissey v. County Tower Corp., 568 F.Supp. 980 (E.D. Mo. 1983).

152. Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010).

153. In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897, 926 (3rd Cir. 1985); ADM Corp. v. Speedmaster Packaging Corp., 525 F.2d 662, 664 (3rd Cir. 1975). Accord, Johnson v. Holway, 522 F.Supp.2d 12 (D.D.C. 2007).

154. Although 28 U.S.C. §1920 does limit the payment of fees to an expert witness for that expert's testimony, there are no limits under 28 U.S.C. §1920 on the payment of fees to a court reporter in connection to recording or transcribing an expert's testimony.

155. In Re: Kulicke & Sofa Industries, Inc. Securities Litigation, 747 F.Supp. 1136 (ED Pa. 1990) aff'd 944 F.2d 897 (3rd Cir. 1991); Montgomery County v. Microvote Corp., 2004 WL 1087196 (EDPA 2004); Nugget Distributors Cooperative v. Mr. Nugget, Inc., 145 FRD 54 (ED Pa. 1992). Accord, McGuigan v. CAE Link Corp., 155 F.R.D. 31 (NDNY 1994).

156. BDT Products, Inc. v. Lexmark International, Inc., 405 F.3d 415 (6th Cir. 2005); Tilton v. Capital Cities/ABC Inc., 115 F.3d 1471 (10th Cir. 1997); Morrison v. Reichhold Chems., 97 F.3d 460 (11th Cir. 1996); Commercial Credit Equipment Corp. v. Stamps, 920 F.2d 1361 (7th Cir. 1990); Rio Props v. Stewart Annoyances, Ltd., 420 F.Supp. 2d 1127 (D. Nevada 2006); United International Holdings v. Wharf, Ltd., 174 F.R.D. 479 (D. Colo. 1997); Garonzik v. Whitman Diner, 910 F.Supp 167 (D.N.J. 1995); McGuigan v. CAE Link Corp., 155 F.R.D. 31 (NDNY 1994); Weseloh-Hurtig v. Hepker, 152 F.R.D. 198 (D. Kansas 1993); Deaton v. Dreis & Krump Mfg. Co. (ND Ohio 1991).

157. Johnson v. Holway, 522 F.Supp. 2d 12 (DDC 2007).

158. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). Accord, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v.

Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

159. Buchanan v. Stanships, Inc., 485 U.S. 265, 268 (1988)(emphasis added). Accord, Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). See, also, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

160. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). Accord, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

161. Brazos Valley Coalition for Life, Inc. v. City of Bryan, Texas, 421 F.3d 314 (5th Cir. 2005); Trepel v. Roadway Express, Inc., 266 F.3d 418 (6th Cir. 2001); Holmes v. Cessna Aircraft Co., 11 F.3d 63 (5th Cir. 1994); Dovenmuehle v. Gildorn Mortgage Midwest Corp., 871 F.2d 697 (7th Cir. 1989); Mason v. Belieu, 543 F.2d 215 (D.C. Cir. 1976); Wahl v. Carrier Manufacturing Co., 511 F.2d 209 (7th Cir. 1975); McInnis v. Town of Weston, 458 F.Supp.2d 7 (D. Conn. 2006); Sullivan v. Cheshier, 991 F.Supp. 999 (N.D. Ill. 1998); Hollenbeck v. Falstaff Brewing Corp., 605 F.Supp. 421 (E.D. Mo. 1984); Morrissey v. County Tower Corp., 568 F.Supp. 980 (E.D. Mo. 1983).

162. In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3rd Cir. 2000); In Re: Kulicke & Soffa Industries Inc. Securities Litigation, 747 F.Supp. 1136 (E.D.Pa. 1990), aff'd, 944 F.2d 897 (3rd Cir. 1991); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); Nugget Distributors Cooperative of America v. Mr. Nugget, Inc., 145 F.R.D. 54 (E.D.Pa. 1992). Accord, Charter Medical Corp v. Cardin, 127 FRD 111 (D. Maryland 1989); Women's Federal Savings and Loan Association of Cleveland v. Nevada National Bank, 108 FRD 396 (D. Nevada 1985); International Wood Processors v. Power Dry, Inc., 598 F. Supp. 299 (D.S.C. 1984); Morrissey v. County Tower Corp., 568 F.Supp. 178 (ED Mo. 1983).

163. In Re: Kulicke & Soffa Industries, Inc. Securities Litigation, 747 F.Supp. 1136 (ED Pa. 1990) aff'd 944 F.2d 897 (3rd Cir. 1991).
164. Sullivan v. Cheshire, 991 F.Supp. 999 (ND Ill. 1998).
165. In Re: Kulicke & Soffa Industries Inc. Securities Litigation, 747 F.Supp. 1136 (E.D.Pa. 1990), aff'd, 944 F.2d 897 (3rd Cir. 1991).
166. In Re: Kulicke & Soffa Industries Inc. Securities Litigation, 747 F.Supp. 1136 (E.D.Pa. 1990), aff'd, 944 F.2d 897 (3rd Cir. 1991).
167. Mitchell v. City of Moore, Oklahoma, 218 F.3d 1190 (10th Cir. 2000); Stearns Airport Equipment Co., Inc. v. FMC Corporation, 170 F.3d 518 (5th Cir. 1999); Cengr v. Fusibond Piping Systems, Inc., 135 F.3d 445 (7th Cir. 1998); Sevenson Environmental Services, Inc. v. Shaw Environmental, Inc., 246 F.R.D. 154 (WDNY 2007); Yasui v. Maui Electric Company, 78 F.Supp.2d 1124 (D. Hawaii 1999).
168. LaVay Corporation v. Dominion Federal Savings and Loan, 830 F.2d 522 (4th Cir. 1987).
169. Neumann v. Reinforced Earth Company, 109 FRD 698 (DDC 1986).
170. BDT Products, Inc. v. Lexmark International, Inc., 405 F.3d 415 (6th Cir. 2005); Tilton v. Capital Cities/ABC, Inc., 115 F.3d 1471 (10th Cir. 1997).
171. In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3rd Cir. 2000); In Re: Kulicke & Soffa Industries Inc. Securities Litigation, 747 F.Supp. 1136 (E.D.Pa. 1990), aff'd, 944 F.2d 897 (3rd Cir. 1991); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3^d Cir. 1975); Nugget Distributors Cooperative of America v. Mr. Nugget, Inc., 145 F.R.D. 54 (E.D.Pa. 1992). Accord, Charter Medical Corp v. Cardin, 127 FRD 111 (D. Maryland 1989); Women's Federal Savings and Loan Association of Cleveland v. Nevada National Bank, 108 FRD 396 (D. Nevada 1985); International Wood Processors v. Power Dry, Inc., 598 F. Supp. 299 (D.S.C. 1984); Morrissey v. County Tower Corp., 568 F.Supp. 178 (ED Mo. 1983).
172. Bruno v. Western Electric Co., 618 F.Supp. 398 (D. Colorado 1985).
173. Smith v. Tenet Healthsystems SL, Inc., 436 F.3d 879 (8th Cir. 2006).
174. Helms v. WalMart Stores, Inc., 808 F.Supp. 1568 (ND Ga. 1992), aff'd 998 F.2d 1023 (11th Cir. 1993); Haagen-Dazs Co. v. Rainbow Gourmet Ice Creams, Inc., 920 F.2d 587 (9th Cir. 1990); Rodriguez-Garcia v. Davila, 904 F.2d 90 (1st Cir. 1990); Allen v. United States Steel Corp., 665 F.2d 689 (5th Cir. 1982); McGuigan v. CAE Link Corp., 155 FRD 31 (NDNY 1994); Nelson v. Darragh Co., 120 FRD 517 (WD Ark. 1988); Meadows v. Ford Motor Co., 62 FRD 98 (WD Ky. 1973); Gillam v. A. Shyman, Inc., 31 FRD 271 (D. Alaska 1962).

175. Montgomery County v. Microvote Corp., 2004 WL 1087196 (EDPA 2004); McGuigan v. CAE Link Corp., 155 FRD 31 (NDNY 1994).
176. In re: Kulicke and Soffa Industries Securities Litigation, 747 F.Supp. 1136 (ED Pa. 1990); aff'd, 944 F.2d 897 (3rd Cir. 1991). Accord, Soler v. McHenry, 771 F.Supp. 252 (ND Ill. 1991), aff'd, 989 F.2d 251 (7th Cir. 1993); Maxwell v. Hapag-Lloyd Aktiengesellschaft, 862 F.2d 767 (9th Cir. 1988); Nissho-Iwai Co. v. Occidental Crude Sales, Ltd., 729 F.2d 1530 (5th Cir. 1984); DiBella v. Hopkins, 407 F.Supp. 2d 537 (SDNY 2005); Jensen v. Lawler, 338 F.Supp. 2d 739 (SD Texas 2004); United Intern. Holdings, Inc. v. Wharf (Holdings) Ltd., 174 FRD 479 (D. Colo. 1997); Phillips v. Cameron Tool Corp., 131 F.R.D. 151 (SD Ind. 1990).
177. Soler v. McHenry, 771 F.Supp. 252 (ND Ill. 1991), aff'd, 989 F.2d 251 (7th Cir. 1993); Maxwell v. Hapag-Lloyd Aktiengesellschaft, 862 F.2d 767 (9th Cir. 1988); In Re: Air Crash Disaster at John F. Kennedy International Airport on June 24, 1975, 687 F.2d 626 (2nd Cir. 1982); Jensen v. Lawler, 338 F.Supp. 2d 739 (SD Texas 2004); United Intern. Holdings, Inc. v. Wharf (Holdings) Ltd., 174 FRD 479 (D. Colo. 1997).
178. Jensen v. Lawler, 338 F.Supp. 2d 739 (SD Texas 2004).
179. In Re: Air Crash Disaster at John F. Kennedy International Airport on June 24, 1975, 687 F.2d 626 (2nd Cir. 1982).
180. Soler v. McHenry, 771 F.Supp. 252 (ND Ill. 1991); aff'd, 989 F.2d 251 (7th Cir. 1993); Nissho-Iwai Co. v. Occidental Crude Sales, Ltd., 729 F.2d 1530 (5th Cir. 1984); DiBella v. Hopkins, 407 F.Supp. 2d 537 (SDNY 2005); Jensen v. Lawler, 338 F.Supp. 2d 739 (SD Texas 2004).
181. In Re: Air Crash Disaster at John F. Kennedy International Airport on June 24, 1975, 687 F.2d 626 (2nd Cir. 1982); DiBella v. Hopkins, 407 F.Supp.2d 537 (SDNY 2005); United Intern. Holdings, Inc. v. Wharf (Holdings) Ltd., 174 FRD 479 (D. Colo. 1997).
182. Phillips v. Cameron Tool Corp., 131 FRD 151 (SD Ind. 1990).
183. DiBella v. Hopkins, 407 F.Supp.2d 537 (SDNY 2005).
184. BDT Products, Inc. V. Lexmark International, Inc., 405 F.3d 415 (6th Cir. 2005); Tilton v. Capital Cities/ABC, Inc., 115 F.3d 1471 (10th Cir. 1997); CBT Flint Partners, LLC. v. Return Path, Inc., 676 F.Supp.2d 1376 (N.D. Ga. 2009); Brown v. The McGraw-Hill Companies, Inc., 526 F.Supp.2d 950 (N.D. Iowa 2007).
185. CBT Flint Partners, LLC. v. Return Path, Inc., 676 F.Supp.2d 1376 (ND Ga. 2009).
186. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). Accord, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized

Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

187. Buchanan v. Stanships, Inc., 485 U.S. 265, 268 (1988)(emphasis added). Accord, Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). See, also, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

188. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). Accord, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

189. Brazos Valley Coalition for Life, Inc. v. City of Bryan, Texas, 421 F.3d 314 (5th Cir. 2005); Trepel v. Roadway Express, Inc., 266 F.3d 418 (6th Cir. 2001); Holmes v. Cessna Aircraft Co., 11 F.3d 63 (5th Cir. 1994); Dovenmuehle v. Gildorn Mortgage Midwest Corp., 871 F.2d 697 (7th Cir. 1989); Mason v. Belieu, 543 F.2d 215 (D.C. Cir. 1976); Wahl v. Carrier Manufacturing Co., 511 F.2d 209 (7th Cir. 1975); McInnis v. Town of Weston, 458 F.Supp.2d 7 (D. Conn. 2006); Sullivan v. Cheshier, 991 F.Supp. 999 (N.D. Ill. 1998); Hollenbeck v. Falstaff Brewing Corp., 605 F.Supp. 421 (E.D. Mo. 1984); Morrissey v. County Tower Corp., 568 F.Supp. 980 (E.D. Mo. 1983).

190. In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3rd Cir. 2000); In Re: Kulicke & Soffa Industries Inc. Securities Litigation, 747 F.Supp. 1136 (E.D.Pa. 1990), aff'd, 944 F.2d 897 (3rd Cir. 1991); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); Nugget Distributors Cooperative of America v. Mr. Nugget, Inc., 145 F.R.D. 54 (E.D.Pa. 1992). Accord, Charter Medical Corp v. Cardin, 127 FRD 111 (D. Maryland 1989); Women's Federal Savings and Loan Association of Cleveland v. Nevada National Bank, 108 FRD 396 (D. Nevada 1985); International Wood

Processors v. Power Dry, Inc., 598 F. Supp. 299 (D.S.C. 1984); Morrissey v. County Tower Corp., 568 F.Supp. 178 (ED Mo. 1983).

191. Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995).

192. Under circumstances not relevant here, the clerk of the district court may also tax certain specific, narrowly defined appellate court costs at the express direction of the clerk of the appellate court, pursuant to the express language of Federal Rule of Appellate Procedure 39. This taxation opinion shall not address the issue of these types of costs.

Under circumstances not relevant here, the clerk of the district court may also tax certain specific, narrowly defined costs incurred before the United States Supreme Court at the express direction of the Clerk of the Supreme Court, pursuant to the express language of Rule 43 of the Rules of the Supreme Court. This taxation opinion shall not address the issue of these types of costs.

This taxation opinion shall also not address the issue of those types of district court costs which are taxable pursuant to Federal Rule of Civil Procedure 68. Rule 68 deals with certain specific, narrow and rare factual situations where certain costs are taxable only by the presiding district court judge, and not by the Clerk. A quick reading of Rule 68 will indicate that it is plainly, on its face, not applicable to the instant situation.

193. Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995).

194. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007).

195. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); McKenna v. City of Philadelphia, 582 F.3d 447 (3d Cir. 2009).

196. Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Lacovara v. Merrill Lynch, Pierce, Fenner & Smith, 102 F.R.D. 959 (E.D. Pa. 1984).

197. Under circumstances not relevant here, the clerk of the district court may also tax certain specific, narrowly defined appellate court costs at the express direction of the clerk of the appellate court, pursuant to the express language of Federal Rule of Appellate Procedure 39. This taxation opinion shall not address the issue of these types of costs.

Under circumstances not relevant here, the clerk of the district court may also tax certain specific, narrowly defined costs incurred before the United States Supreme Court at the express direction of the Clerk of the Supreme Court, pursuant to the express language of Rule 43 of the Rules of the Supreme Court. This taxation opinion shall not address the issue of these types of costs.

This taxation opinion shall also not address the issue of those types of district court costs which are taxable pursuant to Federal Rule of Civil Procedure 68. Rule 68 deals with certain specific, narrow and rare factual situations where certain costs are taxable only by the presiding district court judge, and not by the Clerk. A quick reading of Rule 68 will indicate that it is plainly, on its face, not applicable to the instant situation.

198. Crawford Fitting Company v. J. T. Gibbons, Inc., 482 U.S. 437 (1987); Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007); Nugget Distributors Cooperative of America v. Mr. Nugget, Inc., 145 F.R.D. 54 (E.D.Pa. 1992). Accord, Perry v. Metro Suburban Bus Authority; 236 FRD 110 (EDNY 2006); Schmitz-Werke GMBH v. Rockland Industries, 271 F.Supp. 2d 734 (D. Maryland 2003); Roberts v. Interstate Distrib. Co., 242 F.Supp. 2d 850 (D. Oregon 2002); In Re: Glacier Bay, 746 F.Supp. 1379 (D. Alaska 1990).

199. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Nugget Distributors Cooperative of America v. Mr. Nugget, Inc., 145 F.R.D. 54 (E.D.Pa. 1992). Accord, Cook Children's Medical Center v. New England PPO Plan of Gen. Consol. Management, 491 F.3d 266 (5th Cir. 2007); Perry v. Metro Suburban Bus Authority; 236 F.R.D. 110 (EDNY 2006); Schmitz-Werke GMBH v. Rockland Industries, 271 F.Supp. 2d 734 (D. Maryland 2003); Roberts v. Interstate Distrib. Co., 242 F.Supp. 2d 850 (D. Oregon 2002); US v. Bedford Associates, 548 F.Supp. 748 (SDNY 1982).

200. Crawford Fitting Company v. J. T. Gibbons, Inc., 482 U.S. 437 (1987). Accord, Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988).

201. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000).

202. Delta Air Lines, Inc. v. August, 450 U.S. 346, 353 (1981).

203. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). Accord, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

204. Buchanan v. Stanships, Inc., 485 U.S. 265, 268 (1988)(emphasis added). Accord, Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). See, also, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

205. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). Accord, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

206. Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981); Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D.Pa. 1998). Accord, In Re: Air Crash Disaster at John F. Kennedy International Airport on June 24, 1975, 687 F.2d 626 (2nd Cir. 1982); In Re: Glacier Bay, 746 F.Supp. 1379 (D. Alaska 1990).

207. Chambers v. NASCO, Inc., 501 U.S. 32 (1991); Alyeska Pipeline Service Co. v. Wilderness Society, 421 U.S. 240 (1975).

208. Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007); Montgomery County v. Microvote Corp., 2004 WL 1087196 (EDPA 2004); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D.Pa. 1998). Accord, McGuigan v. CAE Link Corp., 155 F.R.D. 31 (NDNY 1994).

209. Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897, 926 (3d Cir.

1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007).

210. Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010).

211. Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); ADM Corp. v. Speedmaster Packaging Corp., 525 F.2d 662, (3rd Cir. 1975); Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007). Accord, In Re Olympia Brewing Co. Securities Litigation, 613 F.Supp. 1286, 1302 (N.D.Ill. 1985).

212. In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3rd Cir. 2000); In Re: Kulicke & Soffa Industries Inc. Securities Litigation, 747 F.Supp. 1136 (E.D.Pa. 1990), aff'd, 944 F.2d 897 (3rd Cir. 1991); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007); Nugget Distributors Cooperative of America v. Mr. Nugget, Inc., 145 F.R.D. 54 (E.D.Pa. 1992). Accord, Charter Medical Corp v. Cardin, 127 FRD 111 (D. Maryland 1989); Women's Federal Savings and Loan Association of Cleveland v. Nevada National Bank, 108 FRD 396 (D. Nevada 1985); International Wood Processors v. Power Dry, Inc., 598 F. Supp. 299 (D.S.C. 1984); Morrissey v. County Tower Corp., 568 F.Supp. 178 (ED Mo. 1983).

213. Brazos Valley Coalition for Life, Inc. v. City of Bryan, Texas, 421 F.3d 314 (5th Cir. 2005); Trepel v. Roadway Express, Inc., 266 F.3d 418 (6th Cir. 2001); Holmes v. Cessna Aircraft Co., 11 F.3d 63 (5th Cir. 1994); Dovenmuehle v. Gilldorn Mortgage Midwest Corp., 871 F.2d 697 (7th Cir. 1989); Mason v. Belieu, 543 F.2d 215 (D.C. Cir. 1976); Wahl v. Carrier Manufacturing Co., 511 F.2d 209 (7th Cir. 1975); McInnis v. Town of Weston, 458 F.Supp.2d 7 (D. Conn. 2006); Sullivan v. Cheshier, 991 F.Supp. 999 (N.D. Ill. 1998); Hollenbeck v. Falstaff Brewing Corp., 605 F.Supp. 421 (E.D. Mo. 1984); Morrissey v. County Tower Corp., 568 F.Supp. 980 (E.D. Mo. 1983).

214. Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010).

215. Reger v. The Nemours Foundation, 599 F.3d 285, 289 Footnote 3 (3d Cir. 2010) (emphasis added).

216. Delta Air Lines, Inc. v. August, 450 U.S. 346, 353 (1981).

217. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981).

218. Buchanan v. Stanships, Inc., 485 U.S. 265, 268 (1988)(emphasis added). Accord, Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981).

219. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981); Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v.

Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstone v. United States, 649 F.2d 194 (3d Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

220. Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (ED Pa. 1977). Accord, Matthew v. Crosby, 480 F.3d 1265 (11th Cir. 2007); Weaver v. Toombs, 948 F.2d 1004 (6th Cir. 1991); Perry v. Metro Suburban Bus Authority, 236 FRD 110 (EDNY 2006).

221. Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (ED Pa. 1977).

222. Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (ED Pa. 1998).

223. Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007). Accord, Washington v. Patlis, 916 F.2d 1036 (5th Cir. 1990); Chevrette v. Marks, 558 F.Supp. 1133 (M.D. Pa. 1983).

224. Accord, In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (ED Pa. 1998).

225. Reger v. The Nemours Foundation, 599 F.3d 285, 289 Footnote 3 (3d Cir. 2010) (emphasis added).

226. Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988). Accord, McGuigan v. CAE Link Corp., 155 F.R.D. 31 (NDNY 1994).

227. Maldonado v. Parasole, 66 F.R.D. 388,390 (EDNY 1975). Accord, Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (ED Pa. 1998). See, also, McGuigan v. Cae Lank Corp., 155 F.R.D. 31 (NDNY 1994); Phillips v. Cameron Tool Corp., 131 F.R.D. 151 (SD Ind. 1990).

228. Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988). See, also, Popeil Brothers v. Schick Electric, 516 F.2d 772 (7th Cir. 1975); McGuigan v. Cae Lank Corp., 155 F.R.D. 31 (NDNY 1994); Phillips v. Cameron Tool Corp., 131 F.R.D. 151 (S D. Ind. 1990); Maldonado v. Parasole, 66 F.R.D. 388,390 (EDNY 1975).

229. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010). Accord, Samaad v. City of Dallas, 922 F.2d 216 (5th Cir. 1991).

230. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998). Accord, McGuigan v. Cae Lank Corp., 155 F.R.D. 31 (NDNY 1994); Phillips v. Cameron Tool Corp., 131 F.R.D. 151 (S D. Ind. 1990); Maldonado v. Parasole, 66 F.R.D. 388,390 (EDNY 1975).

231. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). Accord, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

232. Buchanan v. Stanships, Inc., 485 U.S. 265, 268 (1988)(emphasis added). Accord, Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). See, also, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

233. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). Accord, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v.

United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

234 . Brazos Valley Coalition for Life, Inc. v. City of Bryan, Texas, 421 F.3d 314 (5th Cir. 2005); Trepel v. Roadway Express, Inc., 266 F.3d 418 (6th Cir. 2001); Holmes v. Cessna Aircraft Co., 11 F.3d 63 (5th Cir. 1994); Dovenmuehle v. Gilldorn Mortgage Midwest Corp., 871 F.2d 697 (7th Cir. 1989); Mason v. Belieu, 543 F.2d 215 (D.C. Cir. 1976); Wahl v. Carrier Manufacturing Co., 511 F.2d 209 (7th Cir. 1975); McInnis v. Town of Weston, 458 F.Supp.2d 7 (D. Conn. 2006); Sullivan v. Cheshier, 991 F.Supp. 999 (N.D. Ill. 1998); Hollenbeck v. Falstaff Brewing Corp., 605 F.Supp. 421 (E.D. Mo. 1984); Morrissey v. County Tower Corp., 568 F.Supp. 980 (E.D. Mo. 1983).

235 . In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3rd Cir. 2000); In Re: Kulicke & Soffa Industries Inc. Securities Litigation, 747 F.Supp. 1136 (E.D.Pa. 1990), aff'd, 944 F.2d 897 (3rd Cir. 1991); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); Adams v. Teamsters Local 115, 678 F.Supp.2d 314 (E.D. Pa. 2007); Nugget Distributors Cooperative of America v. Mr. Nugget, Inc., 145 F.R.D. 54 (E.D.Pa. 1992). Accord, Charter Medical Corp v. Cardin, 127 FRD 111 (D. Maryland 1989); Women's Federal Savings and Loan Association of Cleveland v. Nevada National Bank, 108 FRD 396 (D. Nevada 1985); International Wood Processors v. Power Dry, Inc., 598 F. Supp. 299 (D.S.C. 1984); Morrissey v. County Tower Corp., 568 F.Supp. 178 (ED Mo. 1983).

236 . Accord, In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (ED Pa. 1998).

237 . Women's Federal Savings and Loan Association of Cleveland v. Nevada National Bank, 108 F.R.D. 396 (D. Nevada 1985).

238 . McInnis v. Town of Weston, 458 F.Supp.2d 7 (D. Conn 2006); Sullivan v. Cheshier, 991 F.Supp. (ND Ill. 1998); McGuigan v. CAE Link Corp., 155 F.R.D. 31 (NDNY 1994).

239 . McInnis v. Town of Weston, 458 F.Supp.2d 7 (D. Conn 2006).

240 . Harkins v. Riverboat Services, 286 F.Supp. 2d 976 (ND Ill. 2003), aff'd, 385 F.3d 1099 (7th Cir. 2004); McGuigan v. CAE Link Corp., 155 F.R.D. 31 (N.D.N.Y. 1994); Morrissey v. County Tower Corp., 568 F. Supp. 980 (E.D. Mo. 1983); Harceg v. Brown, 536 F.Supp. 125 (N.D. Ill. 1982). Accord, Seidman v. American Mobile Systems, 965 F.Supp. 612 (E.D. Pa. 1997).

241 . Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). Accord, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000);

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242 . Buchanan v. Stanships, Inc., 485 U.S. 265, 268 (1988)(emphasis added). Accord, Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). See, also, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3d Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

243 . Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). Accord, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3d Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

244 . Brazos Valley Coalition for Life, Inc. v. City of Bryan, Texas, 421 F.3d 314 (5th Cir. 2005); Trepel v. Roadway Express, Inc., 266 F.3d 418 (6th Cir. 2001); Holmes v. Cessna Aircraft Co., 11 F.3d 63 (5th Cir. 1994); Dovenmuehle v. Gildorn Mortgage Midwest Corp., 871 F.2d 697 (7th Cir. 1989); Mason v. Belieu, 543 F.2d 215 (D.C. Cir. 1976); Wahl v. Carrier Manufacturing Co., 511 F.2d 209 (7th Cir. 1975); McInnis v. Town of Weston, 458 F.Supp.2d 7 (D. Conn. 2006); Sullivan v. Cheshier, 991 F.Supp. 999 (N.D. Ill. 1998); Hollenbeck v. Falstaff Brewing Corp., 605 F.Supp. 421 (E.D. Mo. 1984); Morrissey v. County Tower Corp., 568 F.Supp. 980 (E.D. Mo. 1983).

245 . In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); In Re: Kulicke & Soffa Industries Inc. Securities Litigation, 747 F.Supp. 1136 (E.D.Pa. 1990), aff'd, 944 F.2d 897 (3d Cir. 1991); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); Nugget Distributors Cooperative of America v. Mr. Nugget, Inc., 145 F.R.D. 54 (E.D.Pa. 1992). Accord, Charter Medical Corp v. Cardin, 127 FRD 111

(D. Maryland 1989); Women's Federal Savings and Loan Association of Cleveland v. Nevada National Bank, 108 FRD 396 (D. Nevada 1985); International Wood Processors v. Power Dry, Inc., 598 F. Supp. 299 (D.S.C. 1984); Morrissey v. County Tower Corp., 568 F.Supp. 178 (ED Mo. 1983).

246. Brazos Valley Coalition for Life, Inc. v. City of Bryan, Texas, 421 F.3d 314 (5th Cir. 2005); Trepel v. Roadway Express, Inc., 266 F.3d 418 (6th Cir. 2001); Holmes v. Cessna Aircraft Co., 11 F.3d 63 (5th Cir. 1994); Dovenmuehle v. Gilldorn Mortgage Midwest Corp., 871 F.2d 697 (7th Cir. 1989); Mason v. Belieu, 543 F.2d 215 (D.C. Cir. 1976); Wahl v. Carrier Manufacturing Co., 511 F.2d 209 (7th Cir. 1975); McInnis v. Town of Weston, 458 F.Supp.2d 7 (D. Conn. 2006); Sullivan v. Cheshier, 991 F.Supp. 999 (N.D. Ill. 1998); Hollenbeck v. Falstaff Brewing Corp., 605 F.Supp. 421 (E.D. Mo. 1984); Morrissey v. County Tower Corp., 568 F.Supp. 980 (E.D. Mo. 1983).

247. Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010).

248. In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897, 926 (3rd Cir. 1985); ADM Corp. v. Speedmaster Packaging Corp., 525 F.2d 662, 664 (3rd Cir. 1975). Accord, Johnson v. Holway, 522 F.Supp.2d 12 (D.D.C. 2007).

249. Although 28 U.S.C. §1920 does limit the payment of fees to an expert witness for that expert's testimony, there are no limits under 28 U.S.C. §1920 on the payment of fees to a court reporter in connection to recording or transcribing an expert's testimony.

250. In Re: Kulicke & Sofa Industries, Inc. Securities Litigation, 747 F.Supp. 1136 (ED Pa. 1990) aff'd 944 F.2d 897 (3rd Cir. 1991); Montgomery County v. Microvote Corp., 2004 WL 1087196 (EDPA 2004); Nugget Distributors Cooperative v. Mr. Nugget, Inc., 145 FRD 54 (ED Pa. 1992). Accord, McGuigan v. CAE Link Corp., 155 F.R.D. 31 (NDNY 1994).

251. BDT Products, Inc. v. Lexmark International, Inc., 405 F.3d 415 (6th Cir. 2005); Tilton v. Capital Cities/ABC Inc., 115 F.3d 1471 (10th Cir. 1997); Morrison v. Reichhold Chems., 97 F.3d 460 (11th Cir. 1996); Commercial Credit Equipment Corp. v. Stamps, 920 F.2d 1361 (7th Cir. 1990); Rio Props v. Stewart Annoyances, Ltd., 420 F.Supp. 2d 1127 (D. Nevada 2006); United International Holdings v. Wharf, Ltd., 174 F.R.D. 479 (D. Colo. 1997); Garonzik v. Whitman Diner, 910 F.Supp 167 (D.N.J. 1995); McGuigan v. CAE Link Corp., 155 F.R.D. 31 (NDNY 1994); Weseloh-Hurtig v. Hepker, 152 F.R.D. 198 (D. Kansas 1993); Deaton v. Dreis & Krump Mfg. Co. (ND Ohio 1991).

252. Johnson v. Holway, 522 F.Supp. 2d 12 (DDC 2007).

253. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). Accord, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v.

Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

254. Buchanan v. Stanships, Inc., 485 U.S. 265, 268 (1988)(emphasis added). Accord, Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). See, also, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

255. Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). Accord, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

256. Brazos Valley Coalition for Life, Inc. v. City of Bryan, Texas, 421 F.3d 314 (5th Cir. 2005); Trepel v. Roadway Express, Inc., 266 F.3d 418 (6th Cir. 2001); Holmes v. Cessna Aircraft Co., 11 F.3d 63 (5th Cir. 1994); Dovenmuehle v. Gildorn Mortgage Midwest Corp., 871 F.2d 697 (7th Cir. 1989); Mason v. Belieu, 543 F.2d 215 (D.C. Cir. 1976); Wahl v. Carrier Manufacturing Co., 511 F.2d 209 (7th Cir. 1975); McInnis v. Town of Weston, 458 F.Supp.2d 7 (D. Conn. 2006); Sullivan v. Cheshier, 991 F.Supp. 999 (N.D. Ill. 1998); Hollenbeck v. Falstaff Brewing Corp., 605 F.Supp. 421 (E.D. Mo. 1984); Morrissey v. County Tower Corp., 568 F.Supp. 980 (E.D. Mo. 1983).

257. In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3rd Cir. 2000); In Re: Kulicke & Soffa Industries Inc. Securities Litigation, 747 F.Supp. 1136 (E.D.Pa. 1990), aff'd, 944 F.2d 897 (3rd Cir. 1991); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); Nugget Distributors Cooperative of America v. Mr. Nugget, Inc., 145 F.R.D. 54 (E.D.Pa. 1992). Accord, Charter Medical Corp v. Cardin, 127 FRD 111 (D. Maryland 1989); Women's Federal Savings and Loan Association of Cleveland v. Nevada National Bank, 108 FRD 396 (D. Nevada 1985); International Wood Processors v. Power Dry, Inc., 598 F. Supp. 299 (D.S.C. 1984); Morrissey v. County Tower Corp., 568 F.Supp. 178 (ED Mo. 1983).

258. In Re: Kulicke & Soffa Industries, Inc. Securities Litigation, 747 F.Supp. 1136 (ED Pa. 1990) aff'd 944 F.2d 897 (3rd Cir. 1991).
259. Sullivan v. Cheshire, 991 F.Supp. 999 (ND Ill. 1998).
260. In Re: Kulicke & Soffa Industries Inc. Securities Litigation, 747 F.Supp. 1136 (E.D.Pa. 1990), aff'd, 944 F.2d 897 (3rd Cir. 1991).
261. In Re: Kulicke & Soffa Industries Inc. Securities Litigation, 747 F.Supp. 1136 (E.D.Pa. 1990), aff'd, 944 F.2d 897 (3rd Cir. 1991).
262. Mitchell v. City of Moore, Oklahoma, 218 F.3d 1190 (10th Cir. 2000); Stearns Airport Equipment Co., Inc. v. FMC Corporation, 170 F.3d 518 (5th Cir. 1999); Cengr v. Fusibond Piping Systems, Inc., 135 F.3d 445 (7th Cir. 1998); Sevenson Environmental Services, Inc. v. Shaw Environmental, Inc., 246 F.R.D. 154 (WDNY 2007); Yasui v. Maui Electric Company, 78 F.Supp.2d 1124 (D. Hawaii 1999).
263. LaVay Corporation v. Dominion Federal Savings and Loan, 830 F.2d 522 (4th Cir. 1987).
264. Neumann v. Reinforced Earth Company, 109 FRD 698 (DDC 1986).
265. BDT Products, Inc. v. Lexmark International, Inc., 405 F.3d 415 (6th Cir. 2005); Tilton v. Capital Cities/ABC, Inc., 115 F.3d 1471 (10th Cir. 1997).
266. In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3rd Cir. 2000); In Re: Kulicke & Soffa Industries Inc. Securities Litigation, 747 F.Supp. 1136 (E.D.Pa. 1990), aff'd, 944 F.2d 897 (3rd Cir. 1991); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3rd Cir. 1975); Nugget Distributors Cooperative of America v. Mr. Nugget, Inc., 145 F.R.D. 54 (E.D.Pa. 1992). Accord, Charter Medical Corp v. Cardin, 127 FRD 111 (D. Maryland 1989); Women's Federal Savings and Loan Association of Cleveland v. Nevada National Bank, 108 FRD 396 (D. Nevada 1985); International Wood Processors v. Power Dry, Inc., 598 F. Supp. 299 (D.S.C. 1984); Morrissey v. County Tower Corp., 568 F.Supp. 178 (ED Mo. 1983).
267. Bruno v. Western Electric Co., 618 F.Supp. 398 (D. Colorado 1985).
268. Smith v. Tenet Healthsystems SL, Inc., 436 F.3d 879 (8th Cir. 2006).
269. Helms v. WalMart Stores, Inc., 808 F.Supp. 1568 (ND Ga. 1992), aff'd 998 F.2d 1023 (11th Cir. 1993); Haagen-Dazs Co. v. Rainbow Gourmet Ice Creams, Inc., 920 F.2d 587 (9th Cir. 1990); Rodriguez-Garcia v. Davila, 904 F.2d 90 (1st Cir. 1990); Allen v. United States Steel Corp., 665 F.2d 689 (5th Cir. 1982); McGuigan v. CAE Link Corp., 155 FRD 31 (NDNY 1994); Nelson v. Darragh Co., 120 FRD 517 (WD Ark. 1988); Meadows v. Ford Motor Co., 62 FRD 98 (WD Ky. 1973); Gillam v. A. Shyman, Inc., 31 FRD 271 (D. Alaska 1962).

- 270 . Montgomery County v. Microvote Corp., 2004 WL 1087196 (EDPA 2004); McGuigan v. CAE Link Corp., 155 FRD 31 (NDNY 1994).
- 271 . In re: Kulicke and Soffa Industries Securities Litigation, 747 F.Supp. 1136 (ED Pa. 1990); aff'd, 944 F.2d 897 (3rd Cir. 1991). Accord, Soler v. McHenry, 771 F.Supp. 252 (ND Ill. 1991), aff'd, 989 F.2d 251 (7th Cir. 1993); Maxwell v. Hapag-Lloyd Aktiengesellschaft, 862 F.2d 767 (9th Cir. 1988); Nissho-Iwai Co. v. Occidental Crude Sales, Ltd., 729 F.2d 1530 (5th Cir. 1984); DiBella v. Hopkins, 407 F.Supp. 2d 537 (SDNY 2005); Jensen v. Lawler, 338 F.Supp. 2d 739 (SD Texas 2004); United Intern. Holdings, Inc. v. Wharf (Holdings) Ltd., 174 FRD 479 (D. Colo. 1997); Phillips v. Cameron Tool Corp., 131 F.R.D. 151 (SD Ind. 1990).
- 272 . Soler v. McHenry, 771 F.Supp. 252 (ND Ill. 1991), aff'd, 989 F.2d 251 (7th Cir. 1993); Maxwell v. Hapag-Lloyd Aktiengesellschaft, 862 F.2d 767 (9th Cir. 1988); In Re: Air Crash Disaster at John F. Kennedy International Airport on June 24, 1975, 687 F.2d 626 (2nd Cir. 1982); Jensen v. Lawler, 338 F.Supp. 2d 739 (SD Texas 2004); United Intern. Holdings, Inc. v. Wharf (Holdings) Ltd., 174 FRD 479 (D. Colo. 1997).
- 273 . Jensen v. Lawler, 338 F.Supp. 2d 739 (SD Texas 2004).
- 274 . In Re: Air Crash Disaster at John F. Kennedy International Airport on June 24, 1975, 687 F.2d 626 (2nd Cir. 1982).
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- 276 . In Re: Air Crash Disaster at John F. Kennedy International Airport on June 24, 1975, 687 F.2d 626 (2nd Cir. 1982); DiBella v. Hopkins, 407 F.Supp.2d 537 (SDNY 2005); United Intern. Holdings, Inc. v. Wharf (Holdings) Ltd., 174 FRD 479 (D. Colo. 1997).
- 277 . Phillips v. Cameron Tool Corp., 131 FRD 151 (SD Ind. 1990).
- 278 . DiBella v. Hopkins, 407 F.Supp.2d 537 (SDNY 2005).
- 279 . BDT Products, Inc. V. Lexmark International, Inc., 405 F.3d 415 (6th Cir. 2005); Tilton v. Capital Cities/ABC, Inc., 115 F.3d 1471 (10th Cir. 1997); CBT Flint Partners, LLC. v. Return Path, Inc., 676 F.Supp.2d 1376 (N.D. Ga. 2009); Brown v. The McGraw-Hill Companies, Inc., 526 F.Supp.2d 950 (N.D. Iowa 2007).
- 280 . CBT Flint Partners, LLC. v. Return Path, Inc., 676 F.Supp.2d 1376 (ND Ga. 2009).
- 281 . Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). Accord, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized

Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

282 . Buchanan v. Stanships, Inc., 485 U.S. 265, 268 (1988)(emphasis added). Accord, Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). See, also, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

283 . Buchanan v. Stanships, Inc., 485 U.S. 265 (1988); Delta Air Lines, Inc. v. August, 450 U.S. 346 (1981). Accord, Reger v. The Nemours Foundation, 599 F.3d 285 (3d Cir. 2010); In re: Paoli Railroad Yard PCB Litigation, 221 F.3d 449 (3d Cir. 2000); Abrams v. Lightolier, Inc., 50 F.3d 1204 (3d Cir. 1995); Smith v. SEPTA, 47 F.3d 97 (3d Cir. 1995); Friedman v. Ganassi, 853 F.2d 207 (3d Cir. 1988); Institutionalized Juveniles v. Secretary of Public Welfare, 758 F.2d 897 (3d Cir. 1985); Pearlstine v. United States, 649 F.2d 194 (3rd Cir. 1981); Delaney v. Capone, 642 F.2d 57 (3d Cir. 1981); Samuel v. University of Pittsburgh, 538 F.2d 991 (3d Cir. 1976); ADM Corp. v. Speedmaster Packing Corp., 525 F.2d 662 (3d Cir. 1975); City of Rome, Italy v. Glanton, 184 F.R.D. 547 (E.D. Pa. 1999); Greene v. Fraternal Order of Police, 183 F.R.D. 445 (E.D. Pa. 1998); Action Alliance for Senior Citizens of Greater Philadelphia v. Shapp, 74 F.R.D. 617 (E.D. Pa. 1977).

284 . Brazos Valley Coalition for Life, Inc. v. City of Bryan, Texas, 421 F.3d 314 (5th Cir. 2005); Trepel v. Roadway Express, Inc., 266 F.3d 418 (6th Cir. 2001); Holmes v. Cessna Aircraft Co., 11 F.3d 63 (5th Cir. 1994); Dovenmuehle v. Gildorn Mortgage Midwest Corp., 871 F.2d 697 (7th Cir. 1989); Mason v. Belieu, 543 F.2d 215 (D.C. Cir. 1976); Wahl v. Carrier Manufacturing Co., 511 F.2d 209 (7th Cir. 1975); McInnis v. Town of Weston, 458 F.Supp.2d 7 (D. Conn. 2006); Sullivan v. Cheshier, 991 F.Supp. 999 (N.D. Ill. 1998); Hollenbeck v. Falstaff Brewing Corp., 605 F.Supp. 421 (E.D. Mo. 1984); Morrissey v. County Tower Corp., 568 F.Supp. 980 (E.D. Mo. 1983).

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