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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

STANTON ROSS

Plaintiff,

V.

ENTERPRISE BANK & TRUST,

Defendant.

No. 11-2189-JAR

MEMORANDUM AND ORDER

On May 26, 2011, this Court granted defendant Enterprise Bank & Trust’s (“the Bank”) Motion to Dismiss the Second Amended Complaint (Doc. 32). Judgment was entered in favor of the Bank, and the Court ordered that the Bank recover “costs” from plaintiff Stanton Ross (Doc. 33). This matter is before the Court on the Bank’s Motion for Costs (Doc. 35), which seeks to recover attorney’s fees in the amount of \$25,000.

The Federal Rules of Civil Procedure provide that “costs—other than attorney’s fees—should be allowed to the prevailing party.”¹ Although the Bank suggests plaintiff’s lawsuit was frivolous, the only stated grounds for attorney fees is that the Court should award those costs intended to be included by that term. Although the Clerk has not yet taxed costs against plaintiff, the Court will clarify its Judgment to state that its award of costs was not intended to expand the definition of costs to include attorney’s fees incurred by the Bank, but rather, was intended to include the typical fees and expenses listed in 28 U.S.C. § 1920, that is, transcripts,

¹Fed. R. Civ. P. 54(d)(1); *see Alyeska Pipeline Serv. Co. v. Wilderness Soc’y*, 421 U.S. 240 (1975) (holding attorney fees typically are not recoverable as costs).

printing, witnesses, copies and docket fees. Accordingly, plaintiff's motion is denied to the extent it seeks attorney's fees. In so ruling, the Court makes no judgment as to the merits of any motion for attorney's fees brought pursuant to Fed. R. Civ. P. 54(d)(2).

IT IS THEREFORE ORDERED BY THE COURT that defendant's Motion for Award of Costs (Doc. 35) is **denied** to the extent it seeks to include an award of attorney's fees.

IT IS SO ORDERED.

Dated: June 17, 2011

S/ Julie A. Robinson
JULIE A. ROBINSON
UNITED STATES DISTRICT JUDGE