

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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FREDERICK ROGERS,

Plaintiff,

ORDER

v.

01-C-0589-C

C.O. LOCKWOOD,

Defendant.  
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In an order entered in this case on June 18, 2003, Judge Crabb granted defendant Lockwood's request to withdraw the motion to dismiss he had filed grounded on plaintiff's alleged failure to exhaust his administrative remedies. In permitting defendant to withdraw the motion, Judge Crabb noted that "[i]n fairness to plaintiff, however, defendant's counsel should arrange for plaintiff's inmate account to be credited for legal loans extended to plaintiff for the purpose of allowing him to oppose the motion." Now plaintiff has filed a "Motion to Order Defendant to Pay Plaintiff for His Opposed Motion against Dismissal per Court Order by the Court dated June 18, 2003" (Dkt. #51). According to plaintiff, he has provided defense counsel with an itemization of the dates, time, work supplies and the amount of payment he believes he is due, but his account has not yet been credited.

Plaintiff has not provided the court with a copy of the itemized statement he provided defense counsel. However, it appears that plaintiff is asking defendant for more than Judge Crabb's order requires. Specifically, Judge Crabb did not order defendant to pay plaintiff for the time he spent preparing his defense to the motion. The order requires only that legal loans extended to plaintiff for the purpose of defending against the motion be credited to his account. I do not expect that this amount will be great. Plaintiff filed a brief in opposition to the motion to dismiss dated May 29, 2003 (Dkt. #41). It is only 3 pages long. If plaintiff hand-copied the brief to send to defendant, then he would not be entitled to copying costs. However, he would still be entitled to reimbursement for the cost of mailing the brief to the court and opposing counsel. In the June 18 order, Judge Crabb noted that although plaintiff had submitted documentary evidence to the court in opposition to defendant's motion, he had not sent the evidentiary materials to defense counsel and thus had not incurred additional photocopying or postage costs that would otherwise have been reimbursable. Plaintiff is entitled to reimbursement for the cost of postage for mailing these materials to the court, however. By the court's estimation, plaintiff is entitled to reimbursement for postage costs in the amount of \$1.06 for mailing his brief and exhibits to the court and \$.37 for mailing his brief to defense counsel. He also may be entitled to reimbursement for the cost of photocopying his 3-page brief, if he did not hand-copy the brief he sent to defendant.

ORDER

IT IS ORDERED that defendant may have until September 22, 2003, in which to advise the court on the status of the arrangements made for reimbursing plaintiff's inmate account for legal loans he incurred in defending defendant's motion to dismiss.

Entered this 9th day of September, 2003.

BY THE COURT:

STEPHEN L. CROCKER  
Magistrate Judge