

[DO NOT PUBLISH]

In the  
United States Court of Appeals  
For the Eleventh Circuit

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No. 23-13843

Non-Argument Calendar

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MARK WALTERS,

Plaintiff-Appellant,

*versus*

OPENAI, L.L.C.,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Northern District of Georgia  
D.C. Docket No. 1:23-cv-03122-MLB

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Before WILSON, JORDAN, and LUCK, Circuit Judges.

PER CURIAM:

Mark Walters sued OpenAI, L.L.C., in state court for defamation. After OpenAI removed the case to federal court, the district court issued an order requiring OpenAI to show why the case should not be remanded to state court due to lack of diversity. OpenAI responded, but eventually withdrew its notice of removal.

Mr. Walters then filed a motion for costs and fees pursuant to 28 U.S.C. § 1447(c). *See* D.E. 34. In its remand order, the district court denied the motion for fees and costs without explanation. *See* D.E. 39 (“The Court **DENIES** Plaintiff’s Motion for Costs and Attorney’s Fees.”).

We review the denial of fees and costs under § 1447(c) for abuse of discretion. *See Booknight v. Monroe Cty.*, 446 F.3d 1327, 1329 (11th Cir. 2006). In his brief, Mr. Walters argues that we must remand the case to the district court for it to provide some explanation for its denial of fees and costs. *See* Appellant’s Br. at 10-11.

We agree. As a general matter, the standard for awarding fees and costs under § 1447(c) “turn[s] on the reasonableness of the removal.” *Martin v. Franklin Capital Corp.*, 546 U.S. 132, 141 (2005). But “[w]ithout any explanation for its denial of a request for fees [and costs], it is impossible for us to discern the correctness of the district court’s judgment. It is necessary, therefore, to remand the case to the district court for an explanation[.]” *In re Trinity Industries, Inc.*, 876 F.2d 1485, 1496 (11th Cir. 1989).

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Opinion of the Court

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**VACATED and REMANDED.**

**UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING  
56 Forsyth Street, N.W.  
Atlanta, Georgia 30303

David J. Smith  
Clerk of Court

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April 01, 2024

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 23-13843-HH  
Case Style: Mark Walters v. OpenAI, L.L.C.  
District Court Docket No: 1:23-cv-03122-MLB

Opinion Issued

Enclosed is a copy of the Court's decision issued today in this case. Judgment has been entered today pursuant to FRAP 36. The Court's mandate will issue at a later date pursuant to FRAP 41(b).

Petitions for Rehearing

The time for filing a petition for panel rehearing is governed by 11th Cir. R. 40-3, and the time for filing a petition for rehearing en banc is governed by 11th Cir. R. 35-2. Except as otherwise provided by FRAP 25(a) for inmate filings, a petition for rehearing is timely only if received in the clerk's office within the time specified in the rules. **A petition for rehearing must include a Certificate of Interested Persons and a copy of the opinion sought to be reheard.** See 11th Cir. R. 35-5(k) and 40-1.

Costs

Each party to bear its own costs.

Bill of Costs

If costs are taxed, please use the most recent version of the Bill of Costs form available on the Court's website at [www.call.uscourts.gov](http://www.call.uscourts.gov). For more information regarding costs, see FRAP 39 and 11th Cir. R. 39-1.

Attorney's Fees

The time to file and required documentation for an application for attorney's fees and any objection to the application are governed by 11th Cir. R. 39-2 and 39-3.

Appointed Counsel

Counsel appointed under the Criminal Justice Act (CJA) must submit a voucher claiming compensation via the eVoucher system no later than 45 days after issuance of the mandate or the filing of a petition for writ of certiorari. Please contact the CJA Team at (404) 335-6167 or

cja\_evoucher@call.uscourts.gov for questions regarding CJA vouchers or the eVoucher system.

Clerk's Office Phone Numbers

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OPIN-1 Ntc of Issuance of Opinion