

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE  
TWENTIETH JUDICIAL DISTRICT

In the Matter of )  
 )  
FISK UNIVERSITY, )  
 )  
 )  
Petitioner )  
 )  
 )  
THE GEORGIA O'KEEFFE FOUNDATION, )  
 )  
 )  
Counterclaim-Plaintiff )  
 )  
 )  
vs. )  
 )  
FISK UNIVERSITY, )  
 )  
 )  
Counterclaim-Defendant )

Docket No. 05-2994 III  
Chancellor Lyle

FISK UNIVERSITY'S MOTION FOR COSTS

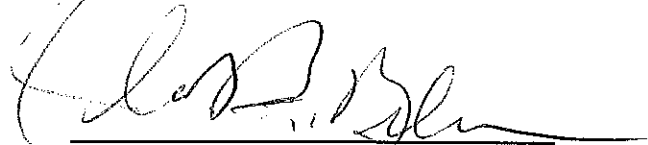
Fisk University ("Fisk"), pursuant to Rule 54.04 of the Tennessee Rules of Civil Procedure and Tenn. Code Ann. § 20-12-101, requests that this Court order The Georgia O'Keeffe Foundation (Museum) ("Museum") to pay the costs included in the Clerk's Bill of Costs, as well as those discretionary litigation costs incurred by Fisk and allowable under Rule 54.04(2). Specifically, Fisk, as the successful party in this litigation seeks taxation of the full costs of this matter to the Museum and seeks recovery of its reasonable and necessary court reporter expenses for depositions or trials, which total \$9,181.81.

In support of this Motion, Fisk submits an affidavit of C. Michael Norton, which is attached hereto and incorporated herein by reference and the accompanying Memorandum In Support of Motion for Award of Court Costs.

WHEREFORE, Fisk respectfully moves this Court for an Order taxing the court costs of this action to the Museum and awarding to Fisk recovery of its discretionary litigation costs as set forth in the attached Affidavit of counsel.

Dated this 11th day of March 2010.

Respectfully submitted,



John P. Branham, BPR No. 2552  
Stacey A. Garrett, BPR No. 16105  
C. Michael Norton, BPR No. 3786  
BONE McALLESTER NORTON PLLC  
511 Union Street, Suite 1600  
Nashville, Tennessee 37219  
(615) 238-6300  
(615) 238-6301 (Fax)

*Counsel for Fisk University  
Appellant*

**THIS MOTION IS SET TO BE HEARD ON FRIDAY, MARCH 26, 2010 at 9:00 A.M.**

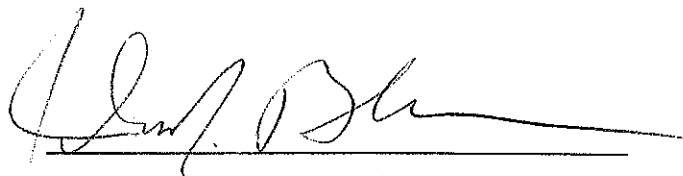
**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Fisk University's Statement of Recoverable Costs was served by hand delivery upon the following this the 11th day of March 2010.

William L. Harbison  
Andree Sophia Blumstein  
L. Webb Campbell III  
Sherrard & Roe, PLC  
424 Church Street, Suite 2000  
Nashville, Tennessee 37219

*Counsel to Georgia O'Keeffe Museum*

Janet M. Kleinfelter  
Special Litigation Division  
Office of the Attorney General  
425 Fifth Avenue North  
Nashville, Tennessee 37243

A handwritten signature in black ink, appearing to read "Janet M. Kleinfelter", is written over a horizontal line. The signature is fluid and cursive.

**IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE  
TWENTIETH JUDICIAL DISTRICT**

<p><b>In the Matter of</b></p> <p><b>FISK UNIVERSITY,</b></p> <p style="padding-left: 40px;"><b>Petitioner</b></p> <p><b>THE GEORGIA O'KEEFE FOUNDATION,</b></p> <p style="padding-left: 40px;"><b>Counterclaim-Plaintiff</b></p> <p style="text-align: center;"><b>vs.</b></p> <p><b>FISK UNIVERSITY,</b></p> <p style="padding-left: 40px;"><b>Counterclaim-Defendant</b></p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p><b>Docket No. 05-2994 III</b></p> <p><b>Chancellor Lyle</b></p>
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**AFFIDAVIT OF C. MICHAEL NORTON**

I, C. Michael Norton, counsel for Fisk University (“Fisk”), in the above captioned matter, being first duly sworn in accordance with the law, makes oath that the attached expenses were incurred on behalf of Fisk. Specifically, the expenses incurred on behalf of Fisk are court reporter expenses for depositions or trial in the total amount of \$9,181.81. A summary of these expenses is provided below, and a copy of the invoices supporting these expenses is attached as Exhibit A.

Date	Service	Description	Amount
08.23.2006	Paul Baca Professional Court Reporters	Deposition of Barbara Lynes	\$420.82
09.11.2006	Brown & Gallo, LLC	Transcript of Deposition of Kevin Grogan	\$287.72
09.12.2006	Brown & Gallo, LLC	Deposition of Opal Baker	\$290.57
09.14.2006	Legalink, Inc.	Deposition of Walter J. Leonard	\$368.20
09.27.2006	Patricia R. Davis	Transcript of Deposition of Bobby Harris	\$152.75

07.16.2007	Beres & Associates	Copy of Videotape deposition of Hazel R. O'Leary and exhibits	\$546.50
10.31.2007	Beres & Associates	Per Diem – Court hearing	\$40.00
11.21.2007	Beres & Associates	Copy of court transcript	\$115.50
01.19.2008	Beres & Associates	Per Diem: 01.08.2008 – Agapitz Judy Lopez Deposition transcript: Lopez Copy of depositions: Spence Maners and Hazel R. O'Leary	\$2,066.00
01.20.2008	Beres & Associates	Per Diem: 01.07.2008 – Saul Cohen Deposition transcript: Cohen Copy of depositions: Robert Workman, Hazel R. O'Leary	\$1,837.75
02.11.2008	Beres & Associates	Deposition of David Wood and transcript	\$1,166.00
02.11.2008	Beres & Associates	Deposition of Les Alexander and transcript	\$1,455.00
02.19.2008 – 02.21.2008	Beres & Associates	Per Diem Fee for Court Appearance	\$435.00
<b>Total</b>			<b>\$9,181.81</b>

I further make oath that the cost of these expenses is accurate and represents a reasonable and necessary expense incurred in this case.

FURTHER, the Affiant saith not.

*C. Michael Norton*

C. MICHAEL NORTON

Sworn to and subscribed before me,

this the 11<sup>th</sup> day of March 2010.

Karen Hillebrand  
Notary Public

My Commission Expires: 5/22/10



07.16.2007	Beres & Associates	Copy of Videotape deposition of Hazel R. O'Leary and exhibits	\$546.50
10.31.2007	Beres & Associates	Per Diem – Court hearing	\$40.00
11.21.2007	Beres & Associates	Copy of court transcript	\$115.50
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02.11.2008	Beres & Associates	Deposition of David Wood and transcript	\$1,166.00
02.11.2008	Beres & Associates	Deposition of Les Alexander and transcript	\$1,455.00
02.19.2008 – 02.21.2008	Beres & Associates	Per Diem Fee for Court Appearance	\$435.00
<b>Total</b>			<b>\$9,181.81</b>

I further make oath that the cost of these expenses is accurate and represents a reasonable and necessary expense incurred in this case.

FURTHER, the Affiant saith not.

*C. Michael Norton*

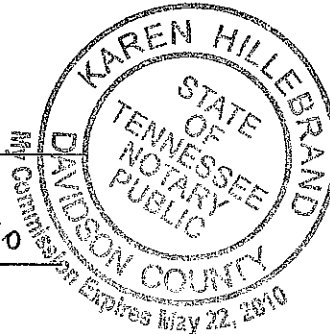
C. MICHAEL NORTON

Sworn to and subscribed before me,

this the 11<sup>th</sup> day of March 2010.

*Karen Hillebrand*  
Notary Public

My Commission Expires: 5/22/10



Legalink, Inc. - A Merrill Company  
 7654 Standish Place  
 Rockville, MD 20855  
 (301) 762-8282 Fax (301) 762-0606

# I N V O I C E

INVOICE NO.	DATE	JOB NUMBER
182651	09/14/2006	01-85942
JOB DATE	REPORTER(S)	CASE NUMBER
09/07/2006	FORMVI	
CASE CAPTION		
Georgia O'Keeffe Foundation -v- Fisk University		
TERMS		
Immediate, sold Merrill FOB facility		

Anne C. Martin, Esq.  
 Bone, McAllester & Norton, PLLC  
 511 Union Street, Suite 1600  
 Nashville, TN 37219

Expedited Copy of the Depo of: Walter J. Leonard	84 Pages	340.20
OVERNIGHT/MESSENGER DELY		28.00
	<b>TOTAL DUE &gt;&gt;&gt;&gt;</b>	<b>368.20</b>
<p>INVOICE DUE UPON RECEIPT AND IS NOT CONTINGENT UPON CLIENT PAYMENT.          For billing questions, please call (301) 417-6941.          Thank you for choosing L.A.D. We appreciate your business.</p>		

TAX ID NO. : 20-2665382

(615) 238-6300

*Please detach bottom portion and return with payment.*

Anne C. Martin, Esq.  
 Bone, McAllester & Norton, PLLC  
 511 Union Street, Suite 1600  
 Nashville, TN 37219

Invoice No. : 182651  
 Date : 09/14/2006  
**TOTAL DUE : 368.20**

Job No. : 01-85942  
 Case No. :  
 Georgia O'Keeffe Foundation -v- Fisk

Remit To: **Legalink, Inc.**  
**P.O. Box 630484**  
**Baltimore, MD 21263**

07.16.2007	Beres & Associates	Copy of Videotape deposition of Hazel R. O'Leary and exhibits	\$546.50
10.31.2007	Beres & Associates	Per Diem – Court hearing	\$40.00
11.21.2007	Beres & Associates	Copy of court transcript	\$115.50
01.19.2008	Beres & Associates	Per Diem: 01.08.2008 – Agapitz Judy Lopez Deposition transcript: Lopez Copy of depositions: Spence Maners and Hazel R. O'Leary	\$2,066.00
01.20.2008	Beres & Associates	Per Diem: 01.07.2008 – Saul Cohen Deposition transcript: Cohen Copy of depositions: Robert Workman, Hazel R. O'Leary	\$1,837.75
02.11.2008	Beres & Associates	Deposition of David Wood and transcript	\$1,166.00
02.11.2008	Beres & Associates	Deposition of Les Alexander and transcript	\$1,455.00
02.19.2008 – 02.21.2008	Beres & Associates	Per Diem Fee for Court Appearance	\$435.00
<b>Total</b>			<b>\$9,181.81</b>

I further make oath that the cost of these expenses is accurate and represents a reasonable and necessary expense incurred in this case.

FURTHER, the Affiant saith not.

*C. Michael Norton*

C. MICHAEL NORTON

Sworn to and subscribed before me,

this the 11<sup>th</sup> day of March 2010.

Karen Hillebrand  
Notary Public

My Commission Expires: 5/22/10



# PAUL BACA PROFESSIONAL COURT REPORTERS



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## 37087

TO: ANNE C. MARTIN  
Bona McAllester Norton  
511 Union Street - Suite 1600  
Nashville City Center  
Nashville, Tennessee 37219  
(615) 239-6300

DATE: 08-23-06

Tax I.D. 85-0423822

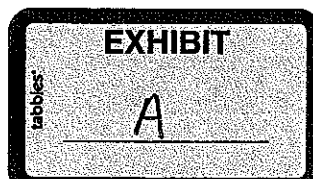
EP

Fisk University v. The Georgia O'Keeffe Museum,  
Case No. 05-2994 III

Deposition of Barbara Lynes taken 08-17-06	346.50
Original & One Copy of Transcript - 77 Pages	7.25
Exhibits - 29	
Complimentary Condensed Transcript; EMail & ASCII	
Courier - Fed Exp	40.00
<b>SUB-TOTAL:</b>	<b>393.75</b>
Tax	27.07
<b>TOTAL AMOUNT DUE:</b>	<b>420.82</b>

Thank You

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BROWN & GALLO, LLC  
513 ELLIS STREET  
AUGUSTA, GA 30901  
(706) 724-2778 Fax (706) 724-5513

# INVOICE

INVOICE NO.	DATE	JOB NUMBER
426949	09/11/2006	02-200924
JOB DATE	REPORTER(S)	CASE NUMBER
08/30/2006	ALDEJA	052994III
CASE CAPTION		
Georgia O'Keeffe Foundation v Fisk University		
TERMS		

Anne C. Martin, Esq.  
Bone McAllester Norton, PLLC  
Suite 1600 Nashville City Center  
511 Union Street  
Nashville, TN 37219

1 CERTIFIED COPY OF TRANSCRIPT OF:  
Kevin Grogan

287.72

TOTAL DUE >>>>

287.72

TAX ID NO. : 20-8233517

(615) 238-6300 Fax (615) 238-6301

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Anne C. Martin, Esq.  
Bone McAllester Norton, PLLC  
Suite 1600 Nashville City Center  
511 Union Street  
Nashville, TN 37219

Invoice No. : 426949  
Date : 09/11/2006  
TOTAL DUE : 287.72

Job No. : 02-200924  
Case No. : 052994III  
Georgia O'Keeffe Foundation v Fisk U

Remit To: BROWN & GALLO, LLC  
P. O. BOX 934157  
ATLANTA, GA 31193

BROWN & GALLO, LLC  
 2700 CENTENNIAL TOWER  
 101 MARIETTA STREET  
 ATLANTA, GA 30303  
 (404) 876-8979 Fax (404) 223-1578

# INVOICE

INVOICE NO.	DATE	JOB NUMBER
427012	09/12/2006	01-200922
JOB DATE	REPORTER(S)	CASE NUMBER
08/31/2006	LAWRKE	052994III
CASE CAPTION		
Georgia O'Keeffe Museum vs. Fisk University		
TERMS		

Anne C. Martin, Esq.  
 Bone McAllester Norton, PLLC  
 Suite 1600 Nashville City Center  
 511 Union Street  
 Nashville, TN 37219

1 CERTIFIED COPY OF TRANSCRIPT OF Opal Baker		290.57
TOTAL DUE >>>>		290.57

TAX ID NO. : 20-8233517

(615) 238-6300 Fax (615) 238-6301

*Please detach bottom portion and return with payment.*

Anne C. Martin, Esq.  
 Bone McAllester Norton, PLLC  
 Suite 1600 Nashville City Center  
 511 Union Street  
 Nashville, TN 37219

Invoice No. : 427012  
 Date : 09/12/2006  
 TOTAL DUE : 290.57

Job No. : 01-200922  
 Case No. : 052994III  
 Georgia O'Keeffe Museum vs. Fisk Uni

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 ATLANTA, GA 31193



**Patricia R. Davis**  
 1130 Eighth Avenue South, Suite 400  
 Nashville, TN 37203  
 (615) 244-3376

# Invoice

Number: 1795-PDJ

Date: September 27, 2006

**Bill To:**

C. Michael Norton, Esquire  
 Bone, McAllester, Norton  
 511 Union Street  
 Suite 1600  
 Nashville, TN 37219

Patricia R. Davis  
 Accurate Court Reporting  
 Fall School Business Center  
 1130 Eighth Avenue South, Suite 400  
 Nashville, TN 37203

<b>REPORTER'S TAX ID:</b>	<b>PLAINTIFF(S):</b>	<b>DEFENDANT(S):</b>
287-82-6976	O'KEEFE	FISK

Date	Description	Amount
9/15/06	Copy of deposition of: Bobby Harris	152.75

**Total** \$152.75

**PLEASE MAKE CHECK PAYABLE TO PATRICIA R. DAVIS**

Online scheduling available at:

[www.ACR-Nashville.com](http://www.ACR-Nashville.com)

THANK YOU  
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Amount Due: 0.00

ASCII disk, condensed format and word index delivered free of charge with any transcript ordered, original or copy.

***Beres & Associates***

230 Fourth Avenue North, Suite 503  
Post Office Box 190461  
Nashville, TN 37219-0461

Date 7/16/2007  
Invoice # 206

**Bill To**

Ms. Anne C. Martin  
Attorney at Law  
511 Union Street  
Suite 1600  
Nashville, Tennessee 37219

Description	Amount
IN THE MATTER OF FISK UNIVERSITY - THE GEORGIA O'KEEFFE FOUNDATION V FISK UNIVERSITY - JULY 5, 2007 - VIDEOTAPED DEPOSITION OF HAZEL O'LEARY	
Copy of Videotape Deposition	487.50
Exhibits	59.00

Please make check payable to Trine M. Mitchell. Thank you for  
your business!

***Beres & Associates*****Total****\$546.50**

1-615-742-2550  
1-615-742-2551

***Beres & Associates***

230 Fourth Avenue North, Suite 503  
Post Office Box 190461  
Nashville, TN 37219-0461

Date 10/31/2007

Invoice # 576

**Bill To**

Ms. Anne C. Martin  
Attorney at Law  
511 Union Street  
Suite 1600  
Nashville, Tennessee 37219

Description	Amount
THE GEORGIA O'KEEFE FOUNDATION V. FISK UNIVERSITY - OCTOBER 23, 2007 - HEARING BEFORE CHANCELLOR ELLEN HOBBS LYLE	
Per Diem Court - Half Day - Your one-half share	40.00

Please make check payable to James P. Beres. Thank you for  
your business!

***Beres & Associates*****Total****\$40.00**

1-615-742-2550

1-615-742-2551

***Beres & Associates***

230 Fourth Avenue North, Suite 503  
Post Office Box 190461  
Nashville, TN 37219-0461

Date 11/21/2007  
Invoice # 636

**Bill To**

Ms. Anne C. Martin  
Attorney at Law  
511 Union Street  
Suite 1600  
Nashville, Tennessee 37219

Description	Amount
THE GEORGIA O'KEEFFE FOUNDATION V. FISK UNIVRSITY - OCTOBER 23, 2007 - MOTIONS BEFORE CHANCELLOR ELLEN HOBBS LYLE	
Copy of Court Transcript	115.50

Please make check payable to James P. Beres. Thank you for  
your business!

Total \$115.50

***Beres & Associates***

1-615-742-2550  
1-615-742-2551

**Beres & Associates**

230 Fourth Avenue North, Suite 503  
Post Office Box 190461  
Nashville, TN 37219-0461

Date 1/19/2008  
Invoice # 798

**Bill To**

Ms. Anne C. Martin  
Attorney at Law  
511 Union Street  
Suite 1600  
Nashville, Tennessee 37219

Description	Amount
IN THE MATTER OF FISK UNIVERSITY - THE GEORGIA O'KEEFFE FOUNDATION V. FISK UNIVERSITY - JANUARY 8TH, 10TH, 11TH & 14TH, 2008 - DEPOSITIONS OF AGAPITA JODY LOPEZ, SPENCE MANERS AND HAZEL O'LEARY	
Per Diem - All Day - January 8, 2008 - Agapita Judy Lopez	200.00
Original of Deposition - Agapita Judy Lopez	662.00
Copy of Depositions - Spence Maners	474.75
Copy of Deposition - Hazel O'Leary - Vols. I and II	629.25
E-Transcript	100.00

Please make check payable to James P. Beres. Thank you for your business!

**Beres & Associates**

Total \$2,066.00

1-615-742-2550

1-615-742-2551

***Beres & Associates***

230 Fourth Avenue North, Suite 503  
Post Office Box 190461  
Nashville, TN 37219-0461

Date 1/20/2008  
Invoice # 801

**Bill To**

Ms. Anne C. Martin  
Attorney at Law  
511 Union Street  
Suite 1600  
Nashville, Tennessee 37219

Description	Amount
IN THE MATTER OF FISK UNIVERSITY - THE GEORGIA O'KEEFFE FOUNDATION V FISK UNIVERSITY - JANUARY 7TH, 9TH & 14TH - DEPOSITIONS OF SAUL COHEN, ROBERT WORKMAN, HAZEL O'LEARY - END OF VOLUME II	
Per Diem - All Day - January 7, 2008 - Saul Cohen	200.00
Original of Deposition - Saul Cohen	960.00
Copy of Deposition - Robert Workman	465.75
Copy of Deposition - Hazel O'Leary - End of Volume II	162.00
E-Transcript	50.00

Please make check payable to Trine M. Mitchell. Thank you for your business!

***Beres & Associates***

1-615-742-2550  
1-615-742-2551

**Total** **\$1,837.75**

**Beres & Associates**

230 Fourth Avenue North, Suite 503  
Post Office Box 190461  
Nashville, TN 37219-0461

Date 2/11/2008  
Invoice # 862

**Bill To**

Ms. Anne C. Martin  
Attorney at Law  
511 Union Street  
Suite 1600  
Nashville, Tennessee 37219

Description	Amount
THE GEORGIA O'KEEFFE FOUNDATION V. FISK UNIVERSITY - FEBRUARY 1ST AND 5TH, 2008 - MOTIONS BEFORE CHANCELLOR ELLEN HOBBS LYLE - FEBRUARY 4TH AND 6TH, 2008 DEPOSITIONS OF LES ALEXANDER, CPA AND DAVID C. WOOD, CPA	
Per Diem - Court - February 1, 2008 - Your share	35.00
Per Diem - Court - February 5, 2008 - Your share	50.00
Per Diem - February 6, 2008 - David Wood	100.00
Original of Deposition - David Wood - Expedited	1,066.00
Per Diem - All Day - February 4, 2008 - Les Alexander	200.00
Original of Deposition - February 4, 2008 - Les Alexander	1,205.00
E-Transcript	50.00

Please make check payable to James P. Beres, #269-42-8404.  
Thank you!

Total \$2,706.00

**Beres & Associates**

1-615-742-2550  
1-615-742-2551

**Beres & Associates**

230 Fourth Avenue North, Suite 503  
Post Office Box 190461  
Nashville, TN 37219-0461

Date 2/26/2008  
Invoice # 944

**Bill To**

Ms. Anne C. Martin  
Attorney at Law  
511 Union Street  
Suite 1600  
Nashville, Tennessee 37219

Description	Amount
GEORIGA O'KEEFFEE MUSEUM V. FISK UNIVERSITY - MOTIONS FEBRUARY 1, 2008; FEBRUARY 5, 2008 AND TRIAL FEBRUARY 19. 20 AND 21. 2008	
Per Diem - Court - Feb. 1 and 5, 2008 - Your share with other attorneys	80.00
Per Diem Court - All Day - Feb. 19-21-2008 - Trial - Your share with other attorneys	355.00

Please make check payable to James P. Beres. Thank you for your business!

**Beres & Associates**

**Total** \$435.00

1-615-742-2550  
1-615-742-2551