UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE

WAYNE A. ATWATER	*	**Bankruptcy Case No. 09-10667**
Debtor	*	
KATHLEEN JELLISON and ELIZABETH HARDISON	*	
Plaintiffs	*	
v.	*	**Adversary Case No 09-1025**
WAYNE A. ATWATER	*	
Defendant	*	

CLERK'S AWARD OF COSTS

On August 26, 2011, Kathleen Jellison and Elizabeth Hardison ("Plaintiffs") filed a Bill of Costs seeking to add costs of $1,410.90 to the judgment they obtained in this matter. Plaintiffs served a copy of their request on the Defendant, Wayne Atwater, who has not filed a response. An order specifically permitting costs was entered on August 16, 2011 (Doc. No. 94).

As reflected in their Bill of Costs, Plaintiffs seek the following:

Fees of the clerk	$ 250.00
Fees for exemplifications and copies of papers necessarily obtained for use in this case	$ 231.50
Docket Fees under 28 U.S.C. § 1923	$ 20.00
Costs incident to taking of depositions	$ 826.50
Service of trial subpoena – Ann Atwater	$ 29.10
Service of subpoena for documents – Atwater Concrete	$ 26.90
Service of subpoena for documents – Machias Savings	$ 26.90
TOTAL	**$1,410.90**

By statute, the following may be taxed as costs:

1) Fees of the clerk and 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 costs of making copies of any materials where the copies are necessarily obtained for use in the case;
5) Docket fees under section 1923 of this title;
6) Compensation of court appointed experts, compensation of interpreters, and salaries, fees, expenses, and costs of special interpretation services under section 1828 of this title.

28 USC § 1920. Federal Rule of Bankruptcy Procedure 7054 provides that "the prevailing party" may be allowed costs, "taxed by the clerk on one day's notice." Fed. R. Bankr. P. 7054(b). The clerk's action may be reviewed by the court "on motion served within five days thereafter." Id.

Several of the items Plaintiffs seek to tax as costs are not taxable. Their request must therefore be reduced. First, whereas service fees for subpoenas served on witnesses who testified at trial are taxable, discovery subpoenas are generally not. Thus, $53.80 will be subtracted for the document subpoenas served on Atwater Concrete and Machias Savings. Second, Plaintiffs seek $826.50 in costs "incident to taking … depositions." The background material submitted by Plaintiffs include a copy of an invoice from a court reporter in that amount, divided between "attendance" ($100) and transcripts. Generally, discovery depositions are not taxable. Transcripts that are prepared at the direction of the court, by agreement of the parties (as taxable), or used at trial or in support or defense of a motion for summary judgment are taxable. Plaintiffs have not provided documentation that any of the transcripts they procured fit within the requirements. A review of the witness and exhibit list from the trial also do not show that any transcripts were submitted into evidence. Plaintiffs' request must thus be reduced by the full $826.50 sought for depositions/transcripts. Finally, $231.50 is sought for

"exemplifications and copies of papers necessarily obtained for use in th[e] case." Although Plaintiffs' documentation in support of this line item is limited, it is sufficient. That being said, Plaintiffs seek copying costs of $.25 per page, despite the fact that the Standard Maine Expense Level List limits copy costs to $.10 per page. The request must be reduced by $.15 per page, or $125.10 for 834 copies.

COSTS ARE TAXED IN THE AMOUNT OF $405.50 AND INCLUDED IN THE JUDGMENT.

Dated: November 23, 2011

Alec Leddy
Clerk of Court