

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION**

**JAMES DUREN; ANN DUREN;  
J.J.'S TRUCK STOP, INC.; and  
AL'S TRUCK STOP OF MALVERN, INC.**

**PLAINTIFFS**

**v.**

**No. 4:09-cv-713-DPM**

**E.I. DUPONT DE NEMOURS AND  
COMPANY**

**DEFENDANT**

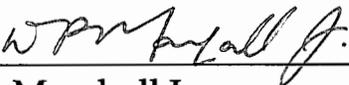
**ORDER**

The Court appreciates the parties' efforts to sort out the costs issues by agreement. The agreed \$16,294.42 in expenses for fees of the Clerk and Marshal, fees for copies, and fees for witnesses are approved as authorized by Rule 54(d) and 28 U.S.C. § 1920.

Here are the Court's rulings on the disputed issues. The requested expert witness fees — except \$40 for Jim Pate — are disallowed under settled precedent. *Crawford Fitting Co. v. J.T. Gibbons, Inc.*, 482 U.S. 437, 441–45 (1987); *see also* 28 U.S.C. § 1821(b). The requested fees for personal process servers are likewise disallowed. As DuPont points out, the statute authorizes payment only for service by the Marshal. 28 U.S.C. § 1920(1); *Crues v. KFC Corp.*, 768 F.2d 230, 234 (8th Cir. 1985). Third, the examples of TV news reports. They were exemplifications, to use the statute's word, albeit not the

copies one usually thinks of. Exemplification is “[t]he action of exemplifying; showing or illustrating by example; an instance of this.” V THE OXFORD ENGLISH DICTIONARY 526 (2d ed. 1989). The clips illustrated by example, showing what TV watchers were seeing about the incident at J.J.’s. As originally proposed, the clips were duplicative and contained unduly prejudicial material. But the Court ordered the cure, including video favorable to DuPont, which the Court believes made the overall presentation fair to both sides. Considering all the circumstances, the Court exercises its discretion to award the total cost of preparing these illustrative videos for the jury – \$2,577.50. (This figure also includes the cost of editing Brooks Crain’s video deposition, as the Court ordered on DuPont’s motion.) The Court directs the Clerk to tax in costs \$18,911.92 against DuPont.

So Ordered.

  
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D.P. Marshall Jr.  
United States District Judge

16 August 2017