

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Philip A. Brimmer

Civil Case No. 09-cv-02226-PAB-BNB

LETICIA GARZA,

Plaintiff,

v.

DILLON COMPANIES, INC.,
d/b/a King Soopers, Inc.,

Defendant.

ORDER

This matter is before the Court on the motion for entry of judgment [Docket No. 56] filed by defendant Dillon Companies, Inc., doing business as King Soopers, Inc. On February 28, 2011, the Court granted [Docket No. 51] defendant's motion for summary judgment [Docket No. 38]. Final judgment entered against plaintiff and in favor of defendant on March 4, 2011 and provided that defendant was entitled to its costs. See Docket No. 52. Upon review of defendant's request for costs, see Docket Nos. 53, 54, the Clerk of the Court taxed costs in the amount of \$4,307.08 against plaintiff and in favor of defendant. See Docket No. 55.

In its motion, defendant seeks to have that cost award reduced to judgment pursuant to Fed. R. Civ. P. 58(b)(1)(B), which provides that "the clerk must, without awaiting the court's direction, promptly prepare, sign, and enter the judgment when . . . the court awards only costs or a sum certain[.]" Defendant cites no authority for the proposition that Rule 58(b)(1)(B) applies to the clerk's taxation of costs. Rather, such

costs became part of the judgment in this case. See 28 U.S.C. § 1920 (“A bill of costs shall be filed in the case and, upon allowance, included in the judgment or decree.”); see also *Massachusetts Bonding & Ins. Co. v. Clymer Mfg. Co.*, 48 F.2d 513, 514 (10th Cir. 1931) (“A judgment or decree in the trial court includes the costs in that court. Such costs are merged in the judgment.”). Therefore, it is

ORDERED that defendant’s motion for entry of judgment [Docket No. 56] is DENIED.

DATED June 4, 2012.

BY THE COURT:

s/Philip A. Brimmer
PHILIP A. BRIMMER
United States District Judge