

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Robert E. Blackburn**

Civil Action No. 13-cv-00505-REB-KLM

DIEBOLD ENTERPRISES SECURITY SYSTEMS, INC., a New York corporation,

Plaintiff,

v.

LOW VOLTAGE WIRING, LTD, a Colorado corporation d/b/a LVW Electronics, Inc.,

Defendant.

**ORDER DENYING AS MOOT DEFENDANT'S
MOTION FOR ENTRY OF JUDGMENT BY THE CLERK**

Blackburn, J.

The matter before me is **Defendant's Motion for Entry of Judgment by the Clerk** [#88],¹ filed March 2, 2015. I deny the motion as moot.

Final judgment was entered on December 11, 2013. (**See Final Judgment** [#65], filed December 11, 2013.) The judgment specifically provided, *inter alia*, "[t]hat defendant is **AWARDED** its costs to be taxed by the Clerk of the Court pursuant to Fed. R. Civ. P. 54(d)(1) and D.C.COLO.LCivR 54.1." (*Id.* ¶ 5 at 2 (emphasis in original).) The clerk has taxed costs in accordance with this order. (**See Amended Bill of Costs** [#85], filed May 28, 2014.)

Defendant has proffered no authority to support its suggestion that Rule 58 requires amendment of the judgment to include the precise dollar amount of costs

¹ "[#88]" is an example of the convention I use to identify the docket number assigned to a specific paper by the court's case management and electronic case filing system (CM/ECF). I use this convention throughout this order.

awarded. The earlier judgment plainly was final, given that the Tenth Circuit found it had jurisdiction to consider plaintiff's appeal. (**See Order and Judgment** at 2 [#86], filed January 6, 2015.) ***Cf. Republic Bank, Inc. v. West Penn Allegheny Health System, Inc.***, 475 Fed. Appx. 692, 697 (10th Cir. 2012) (judgment for sum certain entered without calculation of damages is not final, and therefore not appealable). Thus, it appears that the reduction of the prior award of costs to a sum certain works no change that requires amendment of the judgment.

THEREFORE, IT IS ORDERED that **Defendant's Motion for Entry of Judgment by the Clerk** [#88], filed March 2, 2015, is denied as moot.

Dated March 30, 2015, at Denver, Colorado.

BY THE COURT:



Robert E. Blackburn
United States District Judge