

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

AXIS INSURANCE COMPANY,

Plaintiff,

vs.

Case No. 3:10-cv-393-J-37JBT

FARAH & FARAH, P.A.; EDDIE
FARAH; MICHAEL D. MARESSE;
F. CATFISH ABBOTT; and TRACEY B.
TURNER and TRACY R. TURNER,
individually and on behalf of their minor
son, T.T.T.,

Defendants.

ORDER

This cause is before the Court on the following:

1. Plaintiff's Motion to Tax Costs (Doc. 106), filed November 28, 2011;
2. Magistrate Judge Joel B. Toomey's February 14, 2013 Order (Doc. 121), filed February 14, 2013; and
3. Parties' Joint Response to Order Taking Plaintiff's Motion to Tax Costs Under Advisement (Doc. 123), filed March 18, 2013.

On November 10, 2011, this Court granted in part and denied in part Plaintiff's motion for summary judgment.¹ (Doc. 102.) On November 28, 2011, Plaintiff moved for an order taxing costs against Defendants. (Doc. 106.) Defendants responded. (Docs. 109, 110, 114.) On February 14, 2013, Magistrate Judge Joel B. Toomey took

¹ After entry of judgment (Doc. 103), Defendants Farah & Farah, P.A., Eddie Farah, and Michael D. Maresse appealed (Doc. 110). Defendants Tracey B. Turner and Tracy R. Turner separately appealed. (Doc. 112.) The U.S. Court of Appeals for the Eleventh Circuit affirmed this Court's judgment in the former appeal (Doc. 119) and dismissed the latter appeal for failure to prosecute (Doc. 116).

the motion under advisement and directed the parties to confer and file a joint notice with the Court summarizing their positions. (Doc. 121.) On March 18, 2013, the parties filed a request for entry of a stipulated final judgment on the motion, stating that they agree that Plaintiff is entitled to \$16,500 in taxable costs from Defendants. (Doc. 123, p. 3.) The parties ask the Court to enter final judgment awarding these costs to Plaintiff and to retain jurisdiction to enforce the judgment.

Accordingly, it is hereby **ORDERED AND ADJUDGED**:

1. Parties' Joint Response to Order Taking Plaintiff's Motion to Tax Costs Under Advisement (Doc. 123) is **GRANTED IN PART** and **DENIED IN PART**.
2. The parties' request is **GRANTED** to the extent it asks the Court to enter judgment against Defendants for taxable costs in the amount of \$16,500. The request is **DENIED** to the extent that it asks the Court to retain jurisdiction to enforce the judgment. The Court declines to retain jurisdiction to enforce payment.
3. The Clerk is **DIRECTED** to enter an amended final judgment² providing as follows:

The Court hereby declares that (1) there is no coverage for claims arising out of Defendants Tracey B. Turner and Tracy R. Turner's medical negligence case under policy no. MCN 718206/01/2009, and (2) Plaintiff Axis Insurance Company is not obligated to defend or indemnify Defendants Farah & Farah, P.A., Eddie Farah, Michael D. Marrese, or F. Catfish Abbott in the legal malpractice lawsuit brought against them by Defendants Tracey B. Turner and Tracy R. Turner.

² The amended final judgment will amend the Judgment in a Civil Case (Doc. 103).

Defendants shall pay Plaintiff taxable costs in the amount of \$16,500, to accrue at the applicable statutory interest rate, for which sums let execution issue. Defendants are jointly and severally liable for all money awarded to Plaintiff pursuant to this Amended Final Judgment.

DONE AND ORDERED in Chambers in Jacksonville, Florida, on March 19, 2013.



ROY B. DALTON JR.
United States District Judge

Copies:

Counsel of Record