

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

MAX ALLEN,)
)
 Plaintiff,)
)
 v.)
)
 SANTEE COMMUNITY SCHOOL and)
 MORRIS BATES, Individually and as)
 Superintendent of Santee Community)
 Schools,)
)
 Defendants.)

CASE NO. 4:07CV3131

**ORDER ON MOTION FOR FURTHER
REVIEW OF CLERK’S DENIAL OF
DEFENDANTS’ BILL OF COSTS**

This matter is before the Court on the Defendants’ Motion for Further Review (Filing No. 78) in which the Defendants ask that this Court review the Clerk’s Taxation of Costs (Filing No. 76) denying the Defendants’ Bill of Costs (Filing No. 61) due to the Defendants’ failure to attach invoices or proofs of payment to their Bill of Costs in compliance with the Court’s *Bill of Costs Handbook*. See NECivR 54.1. The Defendants acknowledge their error and have attached such documentation (Filing No. 78-2) to their Motion for Further Review.

Fed. R. Civ. P. 54(d)(1) allows this Court, in its discretion, to review the Clerk’s Taxation of Costs upon the timely filing of a party’s motion, and the Defendants’ Motion for Further Review was timely filed.

The Court’s *Bill of Costs Handbook* provides: “Copies of invoices or proofs of payment must . . . be attached to the bill of costs. Failure to attach proofs of payment will result in the disallowance of that particular item of cost.” *Taxation of Costs By the Clerk: Bill of Costs Handbook 1* (2009) available at <http://www.ned.uscourts.gov/forms/index.html>. “Counsel must . . . attach a separate itemization and the documentation to support the claims made. Documentation may include copies of receipts, invoices, orders, and stipulations of the parties.” *Id.* at 1-2.

In the Plaintiff's Objection to Defendant's Bill of Costs (Filing No. 73), the Plaintiff renewed his argument that he was the prevailing party in this case – an argument that the Court had firmly rejected (Order, Filing No. 71). The Plaintiff also stated, however, that “[t]here is no separate objection to the transcripts of deposition in the amount of \$730.30.” (Pl.’s Objection to Def.’s Bill of Costs, Filing No. 73, p.1.) “[T]he only taxable amount is the \$730.30 for [Defendants’] depositions” (*Id.* at 3.)

The Court will construe Filing No. 73, the Plaintiff's Objection to the Defendants' Bill of Costs, as a stipulation that the Defendants are entitled to costs in the amount of \$730.30 for the depositions of Maureen Nichols, Max Allen, and Morris Bates, pursuant to the Court's *Bill of Costs Handbook* at page 3, § II. B.1. The Defendants' Motion for Further Review is otherwise denied.

Accordingly,

IT IS ORDERED:

1. The Defendants' Motion for Further Review (Filing No. 78) is granted in part, as follows:

The Clerk will issue an Amended Taxation of Costs, allowing costs to the Defendants Santee Community School and Morris Bates, individually and as Superintendent of Santee Community Schools, in the amount of \$730.30;

and
2. The Defendants' Motion for Further Review (Filing No. 78) is otherwise denied.

DATED this 4th day of June, 2009.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge