

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

ROBERT E. BOWMAN,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 04-1288-WEB
	)	
JAMES E. PENNINGTON, Personal	)	
Representative of the Estate of JAMES T.	)	
PENNINGTON; CHARLES M. DEW; and	)	
MASEY V. WOLFE,	)	
	)	
Defendants.	)	
_____	)	

**Memorandum and Order**

This matter is before the court on defendant Masey Wolfe's Motion for Review and Retaxation of Costs (Doc. 113). In the motion, Wolfe contends the clerk erroneously assessed the costs of defendants Pennington and Dew against Wolfe rather than against the plaintiff Robert Bowman. The court agrees.

The judgment in this case provided in part that the plaintiff should recover his costs of action against defendant Wolfe, but that defendant James E. Pennington and Charles M. Dew, who were found to be not at fault in the accident, "shall recover of the plaintiff Robert E. Bowman their costs of action." Doc. 102.

The clerk properly taxed the plaintiff's costs against defendant Wolfe (Doc. 108), but also taxed the costs of defendants Pennington and Dew against Wolfe. (Doc. 109).<sup>1</sup> The costs of

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<sup>1</sup> Doc. 109 amends the clerk's previous taxation of costs in Doc. 107. The court notes that the apparent source of confusion here stems from the bill of costs submitted by defendants Pennington and Dew, which stated that judgment had been entered "against Masey Wolfe." In fact, insofar as the claims against these defendants are concerned, judgment of dismissal was entered in their favor against plaintiff Robert Bowman.

defendants Pennington and Dew should have been taxed against the plaintiff, Robert Bowman.

Accordingly, defendant Wolfe's Motion for Review and Retaxation of Costs (Doc. 113) is GRANTED. The taxation of costs in Docket No. 109 is amended as follows: Costs are hereby taxed against plaintiff Robert E. Bowman, and in favor of James E. Pennington and Charles M. Dew, in the amount \$1747.32 plus interest as set forth in 28 U.S.C. § 1961 (which is 4.93%) and included in the judgment.

IT IS SO ORDERED this 10th Day of May, 2007, at Wichita, Ks.

s/Wesley E. Brown

Wesley E. Brown

U.S. Senior District Judge