

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

TRI-STATE TRUCK INSURANCE, LTD.,  
TST, LTD., and ANDREW B. AUDET,

Plaintiffs,

v.

No. 09-4158-SAC

FIRST NATIONAL BANK OF WAMEGO, et al,

Defendants.

MEMORANDUM AND ORDER

This case comes before the Court on Defendants' motion for entry of judgment under Rule 58. On March 18, 2014, the Court granted Defendants' motions for summary judgment, resolving all issues except the amount of contractual attorneys' fees. No judgment was entered at the time, although it should have been. *See Budinich v. Becton Dickinson and Co.*, 486 U.S. 196, 201-03, 108 S.Ct. 1717, 1721 (1988) (establishing a bright-line rule that an unresolved issue of attorney's fees for the litigation in question does not prevent judgment on the merits from being final, even when attorneys' fees are part of the merits recovery); *McKissick v. Yuen*, 618 F.3d 1177, 1196-1198 (10th Cir. 2010); *North American Specialty Ins. Co. v. Correctional Medical Services, Inc.*, 527 F.3d 1033, 1038 -1039 (10th Cir. 2008).

Accordingly, the court directs the Clerk to enter judgment forthwith granting Defendants' motions for summary judgment (Dks. 75, 95) on all issues except attorneys' fees, and denying Plaintiff's motions for summary judgment (Dks. 73, 97), in accordance with the Court's order dated March 18, 2014 (Dk. 166). The court retains jurisdiction over the collateral issue of the amount of attorneys' fees for the litigation at hand.

SO ORDERED.

Dated this 14th day of May, 2014, at Topeka, Kansas.

s/Sam A. Crow

Sam A. Crow, U.S. District Senior Judge