

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION

DAVID W. AIKEN, JR., AND MARILYN M. AIKEN

PLAINTIFFS

V.

CIVIL ACTION NO. 1:06cv741-LTS-RHW

RIMKUS CONSULTING GROUP, INC.,  
JAMES W. JORDAN, AND USAA CASUALTY  
INSURANCE COMPANY

DEFENDANTS

**ORDER**

\_\_\_\_\_ Defendant USAA Casualty Insurance Company (USAA) has filed a [337] Motion to Review and Correct the Bill of Costs submitted by Plaintiffs. This [336] Bill of Costs, as taxed [336] by the Clerk of Court, totals \$28,903.38. According to the Court's calculation, USAA objects to all but \$415.00 of this amount (\$100.00 for the fees of the Clerk; \$195.00 for service of summons and subpoenas; and \$40.00 per day (or \$160.00) for Plaintiffs' expert witnesses. Plaintiffs' [339] response in opposition does not cite any legal authority, and does not adequately address USAA's request for review.

Plaintiffs obtained a jury verdict against USAA for \$64,000.00, while Defendants Rimkus Consulting Group, Inc. (Rimkus) and James W. Jordan (Jordan) obtained a judgment as a matter of law at the conclusion of the Plaintiffs' case-in-chief. Plaintiffs filed a [334] Notice of Appeal only on the Court's decision with respect to Rimkus and Jordan.

What is most objectionable about the [336] Bill of Costs is that Plaintiffs attempt to saddle USAA with expenses that were incurred as to their cause of action against Rimkus and Jordan. These include, for example, depositions of Jordan; Paul Colman (another Rimkus employee); and Rovertto Chapa (who was an independent contractor for Rimkus). The other large expenses are for the fees charged by Plaintiffs' experts: Charles Barrere; Charles Ivy; Leonard Quick; and Nancy DeFazio (it should be noted that the \$40.00 per day witness fee suggested by USAA, as opposed to hourly/daily fees charged by the experts, does not apply to Quick, since it is USAA's position that Quick was called to question Rimkus's/Jordan's conduct). It should also be emphasized that these experts were not court-appointed. 28 U.S.C. § 1920(6).

The Court also agrees with USAA's assessment that the fees and disbursements paid by Plaintiffs for printing and copies are not itemized or properly documented to make an accurate determination as to their use or purpose. The Court will not engage in guesswork to arrive at an amount that should be taxable against USAA, especially when the bulk of the exhibits were aimed at Rimkus and Jordan. In addition, the electronic courtroom makes exhibits more easily accessible to the Court, jury, and counsel so that many copies or other duplicated materials are

unnecessary for trial purposes. Finally, all that Plaintiffs' counsel can say in any definitive manner is that the photocopying expenses were charged to the Plaintiffs. This casual approach, which permeates Plaintiffs' [339] response, is not sufficient to justify imposing these costs on USAA.

In accordance with 28 U.S.C. § 1920, the Court will allow the following amounts on the Bill of Costs against USAA:

- \$100.00 fees of the clerk
- \$195.00 service of summons and subpoenas
- \$280.00 daily witness fees for Charles Barrere (two days); Charles Ivy (three days); and Nancy DeFazio (two days)
- \$143.10 daily trial transcript of the testimony of James Jordan (Jordan was also called by USAA in its case-in-chief, and the Court determines that it was necessary for use by Plaintiffs).
- \$273.00 air fare of Charles Barrere
- \$192.64 room charge for Charles Barrere
- \$288.96 room charge for Charles Ivy
- \$100.00 mileage for Charles Ivy (estimated)

These allowances add up to \$1,572.70 as to USAA.

Therefore, **IT IS ORDERED**:

USAA's [337] Motion to Review and Correct Bill of Costs is **GRANTED**, and costs against USAA only shall be assessed by the Clerk of Court in the sum of \$1,572.70.

The Bill of Costs [336] taxed by the Clerk of Court is revised accordingly to reflect the amount allowed by the Court.

**SO ORDERED** this the 3<sup>rd</sup> day of April, 2008.

s/ L. T. Senter, Jr.  
L. T. SENTER, JR.  
SENIOR JUDGE