

STATE OF MICHIGAN
IN THE 17th CIRCUIT COURT FOR KENT COUNTY

NATHANIEL GUYTON; PAUL IVY;
JOHNNY RICHARDSON; DAVID
WHITEHEAD; EDDIE SPENCER; and
PATRICIA SPENCER,

Case No. 17-09726-CBB

Plaintiffs,

HON. CHRISTOPHER P. YATES

vs.

LUCIUS MANNING; RODNEY RUSH;
LILLIAN HOWELL-BELL; JIM IVY;
OTIS DAVIS; NATASHA ANDERSON;
VALERIE PERKINS; TRACY TAYLOR;
JOSEPH CHESTER; and SHARON RUSH,

Defendants.

ORDER CONCERNING TAXABLE COSTS UNDER MCL 600.2441

On December 29, 2017, the Court issued findings of fact, conclusions of law, and a verdict that included a declaration that the defendants had prevailed on the fundamental validity of the vote to oust the pastor of Macedonia Missionary Baptist Church of Grand Rapids (“MMBC”). In light of that verdict, the Court invited the defendants – all members of one faction of the congregation at MMBC – “to submit a proposed judgment under the so-called seven day rule that memorializes the Court’s verdict.” The defendants responded by submitting a collection of proposed judgments, one for each defendant, providing for no damages, but awarding statutory costs of \$240. The plaintiffs – all members of the other faction of the congregation at MMBC – filed a timely objection under the seven-day rule, asserting that there should be only one judgment with only one award of costs. The Court agrees with the plaintiffs, so the Court shall enter only one judgment for \$170 in costs.

As a general rule, “[c]osts will be allowed to the prevailing party in an action” under MCR 2.625(A)(1), and the defendants are the prevailing parties in this case, Angott v Chubb Group of Ins Co, 270 Mich App 465, 489 (2006), so the defendants are entitled to tax costs. Under Michigan law, “[t]he power to tax costs is purely statutory, and the prevailing party cannot recover such expenses absent statutory authority.” Van Elslander v Thomas Sebold & Assoc, Inc, 297 Mich App 204, 216 (2012). “The taxation of costs in civil actions is generally governed by chapter 24 of the Revised Judicature Act, MCL 600.2401 *et seq.*” Guerrero v Smith, 280 Mich App 647, 678 (2008). In this case, the defendants have supported the costs in their proposed judgments with the citation to MCL 600.2441, which provides for “sundry costs” in two entirely separate circumstances. First, “[i]n all civil actions or special proceedings *in the supreme court*,” two types of costs can be recovered. See MCL 600.2441(1) (emphasis added). That provision does not apply to a circuit-court case. Second, “[i]n all civil actions or special proceedings in the circuit court, . . . the following amounts shall be allowed as costs in addition to other costs unless the court otherwise directs: (a) For the proceedings before trial, \$20.00[;] (c) For the trial of the action or proceeding, \$150.00.” See MCL 600.2441(2). Therefore, the defendants are entitled to the sum of those two figures as taxable costs, *i.e.*, \$170.00, “unless the court otherwise directs[.]”

The complication presented in this case arises from the plaintiffs’ decision to file suit against several defendants, as opposed to only one defendant. For three reasons, however, the Court believes that the costs identified in MCL 600.2441(2) should only be taxed once despite the inclusion of more than one defendant in this action. First, unlike most taxed costs that involve amounts actually spent on litigation, see, e.g., Van Elslander, 297 Mich App at 216, the costs taxed by the defendants in this case under MCL 600.2441(2) do not reflect out-of-pocket expenses incurred by the defendants. That

is, the defendants are entitled to tax the fictitious costs identified in MCL 600.2441(2)(a) and (c) only because the Legislature has assigned dollar figures to certain routine occurrences in civil litigation, not because the defendants actually had to expend those sums as part of the litigation. Second, the governing statute itself makes clear that “the following amounts shall be allowed as costs in addition to other costs unless the court otherwise directs[,]” see MCL 600.2441(2), so the statute appears to limit the recovery to “the following amounts[,]” as opposed to “the following amounts” multiplied by the number of defendants in the case. Third, the statute affords the Court discretion by permitting “the court [to] otherwise direct[]” the treatment of costs. See id. Given the circumstances of this case, including the fact that all of the defendants were represented by a single attorney and made all the same arguments, the Court “directs” that the defendants, as a group, are entitled to recover costs collectively, rather than individually. See id. Consequently, the defendants may present one – and only one – judgment that taxes costs in the aggregate amount of \$170.00.

IT IS SO ORDERED.

Dated: March 9, 2018



HON. CHRISTOPHER P. YATES (P41017)
Kent County Circuit Court Judge