

SUPERIOR COURT  
OF THE  
STATE OF DELAWARE

T. HENLEY GRAVES  
*RESIDENT JUDGE*

SUSSEX COUNTY COURTHOUSE  
ONE THE CIRCLE, SUITE 2  
GEORGETOWN, DE 19947

January 7, 2010

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**RE: Louis and Mary Perticari v. State Farm Mutual Automobile  
Insurance Company - Civil Action No. So7C-12-015 ESB**

Dear Counsel:

Before the Court is a Motion for Costs pursuant to Superior Court Civil Rule 54(d) and 16.1.<sup>1</sup>

Plaintiff seeks:

|                                      |                 |
|--------------------------------------|-----------------|
| Filing Fees                          | \$ 194.50       |
| Sheriff's service fees               | 30.00           |
| Delaware Insurance Commissioner      | 25.00           |
| Arbitrator's Fee                     | 200.00          |
| Michael Mark, M.D.'s trial testimony | <u>3,000.00</u> |

**\_\_\_\_\_ Total Costs** **\$3,449.50**

Interest pursuant to Rule 16.1(k)(11)(D)(iii)  
and 6 Del. C. §2301: **\$3,306.25**

The defense specifically made an objection to the \$3,000.00 requested for the medical expert for one-half (1/2) day at Court.

The case the defense cites for a much lower fee award is now almost six (6) years old. A more recent case provides current guidance as to this issue.

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<sup>1</sup>Superior Court Civil Rule 16.1 was repealed, effective March 1, 2008. Because this action originated prior to March 1, 2008, the Rule nevertheless applies.

A reasonable fee for one-half (1/2) day of testimony for a medical expert in a personal injury trial was found to be between \$1,972.00 and \$2,730.00 based upon inflationary pressures.<sup>2</sup> I have taken into consideration the fact that the doctor's bill in the present case included \$250.00 for pretrial costs, but this is not being sought.

I have considered that the doctor's office is located in Milford. I am granting an award of \$2,100.00 for the doctor's costs.

Therefore, the costs sought are granted, less \$900.00, as to the doctor.

Costs and interest are awarded in the amount of \$5,855.75.

**IT IS SO ORDERED.**

Yours very truly,

/s/ T. Henley Graves

T. Henley Graves

THG:baj  
cc: Prothonotary

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<sup>2</sup>McKinley v. Schaedel, 2009 WL 4653782 (Del. Super. Nov. 30, 2009).