

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
12 CVS 9573

PROSPECT MARKETING GROUP, INC., )  
Plaintiff )  
v. )  
CHASNAN, INCORPORATED d/b/a )  
CASTLE ADVERTISING and DAVID )  
CASTLE, )  
Defendants )

**ORDER REGARDING  
DEFENDANTS' VERIFIED  
BILL OF COSTS**

THIS MATTER comes before the court upon Defendants' filing of a Verified Bill of Costs moving this court to enter an order assessing taxable costs against Plaintiff ("Motion"); and

THE COURT, having considered the Motion, FINDS and CONCLUDES that:

1. On October 10, 2013, this court entered an Opinion and Order on Defendants' Motion to Dismiss ("October 10 Order"). In the October 10 Order, this court granted Defendants' Motion to Dismiss for Lack of Personal Jurisdiction, dismissed Plaintiff's Claims against Defendants and charged taxable costs to Plaintiff.

2. On October 21, 2013, Defendants filed the Motion asking this court to enter an order awarding them certain costs pursuant to the October 10 Order. The Motion itemizes Defendants' costs incurred and seeks a total of \$2,248.19. The breakdown of requested costs is as follows:

- a. Copies & Printing Charges – \$148.00
- b. Business Court Designation Fee – \$1,000.00
- c. Postage and Delivery Service Fees – \$241.08

- d. Filing Fees and Court Costs – \$110.00
- e. Research Costs – \$559.27
- f. Travel Expenses – \$189.84

3. N.C. Gen. Stat. §§ 6-20 and 7A-305 (hereinafter, references to the North Carolina General Statutes will be to "G.S.") govern this court's ability to award costs to a prevailing party.<sup>1</sup> G.S. 6-20 provides, in relevant part, that "[c]osts awarded . . . are subject to the limitations . . . set forth in G.S. 7A-305(d)." G.S. 7A-305(d) sets out a list of expenses that are "complete and exclusive and constitute a limit on the trial court's discretion to tax costs pursuant to G.S. 6-20." Thus, a trial court may only award costs under G.S. 6-20 that are explicitly provided for in G.S. 7A-305(d) or other statutes. See *Khomyak v. Meek*, \_\_ N.C. App. \_\_, 715 S.E.2d 218, 225 (2011), *disc. review denied*, 720 S.E.2d 392 (N.C. 2012) ("[T]he plain language [of G.S. 6-20] simply limits a trial court's discretion to award only those costs specifically provided for under section 7A-305(d) or elsewhere in the General Statutes."); see also *Charlotte v. McNeely*, 281 N.C. 684, 691 (1972) ("[C]osts, in this State, are entirely creatures of legislation, and without this they do not exist." (*quoting Clerk's Office v. Commissioners*, 121 N.C. 29, 30 (1897)))

4. A review of G.S. 7A-305(d) reveals that the cost incurred for service of process by certified mail is specifically enumerated as an assessable and recoverable cost. See G.S. 7A-305(d)(4). Accordingly, the court CONCLUDES that Defendants should be entitled to an award totaling \$7.56 for expenses incurred relating to service of process by certified mail.

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<sup>1</sup> Defendants do not specify any provisions in the General Statutes that might otherwise support their Motion. As such, the court limits its analysis to these default provisions.

5. A review of G.S. 7A-305(d) reveals no provision for the recovery of copy and printing charges, Business Court designation fees, filing fees, research costs, or attorney travel expenses. Accordingly, the court CONCLUDES that there is no statutory basis to support an award for such costs, and Defendants should not receive an award for those expenses.

NOW THEREFORE, based upon the foregoing, it is HEREBY ORDERED that:

1. Defendants' Motion is GRANTED, in part.
2. The Clerk of Court is authorized to assess taxable costs against Plaintiff and in favor of Defendants in an amount totaling \$7.56.
3. Except as specifically granted by this Order, Defendants' Motion is DENIED.

This the 21st day of November, 2013.

/s/ John R. Jolly, Jr.  
John R. Jolly, Jr.  
Chief Special Superior Court Judge for  
Complex Business Cases