

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

BEN EZRA, WEINSTEIN AND  
COMPANY, INC.,

Plaintiff,

vs.

Civil No. 97-485 LH/LFG

AMERICA ONLINE, INC.,

Defendant.

**CLERK'S ORDER SETTLING COSTS**

THE CLERK, pursuant to Local Rule 54 of the Rules of the United States District Court for the District of New Mexico, effective January 1, 1999, and after reviewing Defendant America Online, Inc.'s Motion to Tax Costs [Document #106], filed March 26, 1999; Plaintiff Ben Ezra, Weinstein and Company, Inc.'s Opposition to Defendant America Online, Inc.'s Motion to Tax Costs, filed April 21, 1999; and Defendant America Online, Inc.'s Reply in Support of its Motion to Tax Costs, filed April 20, 1999, finds as follows:

**1. Description: Depositions of S. Kovacs, J. Berg, and M. Hsu.**

Allowed:	<u>XX</u>	Dollar Amount:	\$382.00
			509.50
			460.00

Comments: It is apparent that these depositions were relied upon by the Court in reaching its decision in granting summary judgment in favor of the Defendant. See, Memorandum Opinion and Order filed March 1, 1999 [Document #99]. Therefore, in accordance with D.N.M.LR-Civ

54.2(b)(2)(B), the depositions are deemed reasonably necessary to the litigation. Accordingly, these costs are allowed.

**2. Description: Transcript of Teleconference.**

Disallowed: XX Dollar Amount: \$63.00

Comments: The Defendant failed to show that the transcript in question was authorized in advance or requested by the Court. Therefore, the cost is disallowed. D.N.M.LR-Civ 54.2(a).

**TOTAL COSTS ALLOWED: \$1,351.50**

**TOTAL COSTS DISALLOWED: \$63.00**

**ACCORDINGLY**, costs are taxed against the Plaintiff and in favor of the Defendant in the amount of \$1,351.50. Application for review by the Court, if desired, shall be made within five days upon receipt of this order.

  
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ROBERT M. MARCH, CLERK  
United States District Court