

TAXABLE COURT COSTS

Taxable court costs are a source of considerable confusion to the litigating public. To those who do not litigate they are a matter of complete disinterest, as indeed they should be.

Generally, taxable court costs are awarded to the winning side in a lawsuit and are intended to defray the legal expenses of the successful litigant. They are not the same thing as legal fees and disbursements.

A common misconception is that "court costs" will cover the successful party's entire legal bill (that is, the losing side will be required to pay all of the winning side's lawyer bills). Not so. Legal fees are a matter between the parties and their counsel. Sometimes parties pay their lawyers by the hour according to the lawyer's hourly rate and some pay on a contingency basis (a percentage of what is collected and nothing for fees if there is a loss).

The magnitude of the taxable court costs (often referred to simply as "costs") awarded is based on the complexity of the matter, the different steps that were involved, the amount of money in dispute and, in some cases, the conduct of the parties. Usually, taxable costs cover between one-third and one-half of the actual legal expenses.

For example, in a typical moderate soft tissue injury case with total damages of, say, \$25,000.00, the successful plaintiff might expect to pay something like \$7,000.00 - \$8,000.00 in legal fees and to recover approximately \$2,500.00 - \$4,000.00 in taxable court costs. The end result is a net cost that is lower than the actual legal fees incurred but not zero either.

Sometimes the amount of the taxable court costs is actually higher than the legal bill as, for example, when a great deal of time is spent on a contingency matter and the amount of the judgment is relatively low. For example, if the award at trial is \$12,000 (assume lawyer is on a 1/3 contingency so fees would be \$4,000) plus costs of \$5,000 then, assuming such a term in the contingency fee agreement, the lawyer would normally take the costs and the client would keep the entire judgment.

Remember, the idea of court costs is to defray the actual legal expenses. If the costs in our example above were to go to the client he would end up netting more (\$12,000 - \$4,000 plus costs of \$5,000 = \$13,000) than the full amount of the judgment.

Before you start decrying the greed of the lawyer in the hypothetical case posed, however, remember that there would likely have been about \$20,000 in legal time put in and the extra money would mean a loss to the lawyer (who was successful, after all, in our example) of \$15,000 instead of \$16,000.

In addition to costs, the successful party will also usually be able to recover all of the disbursements incurred in bringing and pursuing the action. Disbursements are different

than "special damages" and refer to such things as court filing charges, process server fees, transcript charges, court reporter fees, court time (for trials), jury fees, the costs of medical reports and similar miscellaneous expenses.