

NICHOLAS VILLACCI

v.

BETHANY RYAN

Submitted on Briefs November 29, 2005  
Decided December 20, 2005

Panel: SAUFLEY, C.J., and CLIFFORD, DANA, ALEXANDER, CALKINS,  
LEVY, and SILVER, JJ.

MEMORANDUM OF DECISION

Nicholas Villacci appeals from an order entered in the Superior Court (Cumberland County, *Horton, J.*) awarding Bethany Ryan costs as the prevailing party in their civil suit. Contrary to Villacci's contentions, the court did not abuse its discretion in awarding costs to Ryan for fees charged by Dr. Stewart Russell and Dr. Thomas Bohan to attend their depositions when the depositions were introduced at trial in lieu of live testimony, or for awarding costs associated with the expedited preparation of Dr. Russell's deposition for trial. *See* 14 M.R.S.A. § 1502-C (2003); M.R. Civ. P. 54(g). Moreover, the court did not abuse its

discretion in awarding the statutory maximum of \$500 for visual aids. *See* 14 M.R.S.A. § 1502-C(3). However, as Ryan concedes, the sum of the costs awarded by the court should be reduced by the \$400 associated with the deposition of Dr. Douglas Pavlak for attendance at his deposition because he testified at trial. *See Landis v. Hannaford Bros. Co.*, 2000 ME 111, ¶ 13, 754 A.2d 958, 961; *Poland v. Webb*, 1998 ME 104, ¶ 14, 711 A.2d 1278, 1281.

The entry is:

The judgment is modified so that the award of costs is reduced from \$4684.35 to \$4284.35, and, as modified, the judgment is affirmed.

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