

- Motion to set aside

|      |                                                         |        |          |
|------|---------------------------------------------------------|--------|----------|
| 10 a | F. M. Arf. witness fee for Spring Term Circuit Ct.      | 1927.  | \$6.50 ✓ |
| 10 b | " " " " " Fall " " " "                                  | 1928   | 6.50 ✓   |
| 10 c | " " " " " Spring " " " "                                | "      | 7.00 ✓   |
| 10 d | " " " " " Fall " " " "                                  | 1929   | 5.00 ✓   |
| 10 e | " " " " " Spring " " " "                                | "      | 6.20 ✓   |
| 11 a | Paul T. Benson, witness fee for Spring Term Circuit Ct. | 1928 - | 6.20 ✓   |
| 11 b | " " " " " " " " " "                                     | 1929 - | 6.00 ✓   |
| 12 a | Frank Barchof witness fee for Spring Term Circuit Ct.   | 1927   | 6.00 ✓   |
| 12 b | " " " " " " " " " "                                     | 1928   | 6.00 ✓   |
| 13 a | Dr. Wm. Holmes " " " " " Spring " " " "                 | "      | "        |
| 13 b | " " " " " " " " " "                                     | "      | "        |

being: That the Court strike from the cost bill as now taxed the fees of the clerk for issuing the subpoenas for the following state witnesses for the Spring and Fall Term of 1927, Spring and Fall term, 1928 and Spring Term 1929 as now taxed at 30¢ per each subpoena served:

|   |                            |         |
|---|----------------------------|---------|
| a | witness Dr. William Holmes | \$ 1.50 |
| b | " B. A. Williams           | 1.50    |
| c | " Lee Willis               | 1.50    |
| d | " A. E. Croner             | 1.50    |
| e | " Harry Dugger             | 1.50    |
| f | " E. E. Shumaker           | 1.50    |
| g | " Bayberry Roberts         | 1.50    |
| h | " C. Rile                  | 1.50    |
| i | " Martin Crosby            | 1.50    |
| j | " E. E. Gullidge           | 1.50    |
| k | " F. M. Arf                | 1.50    |
| m | " Frank Barchof            | 1.50    |
| n | " Paul T. Benson           | .60     |
| o | " J. W. Fleming            |         |

Shirley: That the Court strike from the cost bill as now taxed the items of cost for the service by the Sheriff of the subpoenas for the state witnesses for the Spring term 1927, Fall term, 1927, Spring Term, 1928, Fall term, 1928 and Spring term, 1929 as follows:

|                    |      |
|--------------------|------|
| Dr. William Holmes | 3.25 |
| B. A. Williams     | 3.25 |
| Lee Willis         | 3.25 |
| A. E. Croner       | 3.25 |
| Harry Dugger       | 3.25 |
| E. E. Shumaker     | 3.25 |
| C. Rile            | 3.25 |
| Martin Crosby      | 3.25 |
| E. E. Gullidge     | 3.25 |
| F. M. Arf          | 2.60 |
| Paul T. Benson     | 1.30 |
| Frank Barchof      | 1.30 |
| J. W. Fleming      |      |

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Now comes the defendant, William R. Ruddy, and moves the Court to relax the costs as now taxed by the Clerk of the Court against the defendant and issue an order, and direct the Clerk to relax the same, and to have stricken from the cost, as improper items of cost as now taxed by the Court, the following items of cost:

First, witness fees of state witnesses as follows:

|      |       |                 |                                              |         |      |         |
|------|-------|-----------------|----------------------------------------------|---------|------|---------|
| 0    | 1. a. | B. A. Williams, | witness fee for Spring term of the Court     | Current | 1927 | \$ 6.00 |
| 0    | 1. b. | B. A. Williams, | " " " Fall "                                 | " "     | 1928 | 6.00    |
| 1 c  | "     | "               | " " " Spring "                               | " "     | "    | 7.40    |
| 1 d. | "     | "               | " " " Fall "                                 | " "     | 1929 | 6.66    |
| 1 e. | "     | "               | " " " Spring "                               | " "     | "    | 6.50    |
| 0    | 2. a. | Lee Willis      | witness fee for Spring term of the Court     | Current | 1927 | 6.30    |
| 2 b. | "     | "               | " " " Fall "                                 | " "     | 1928 | 6.30    |
| 2 c. | "     | "               | " " " Spring "                               | " "     | "    | 7.35    |
| 2 d. | "     | "               | " " " Fall "                                 | " "     | 1929 | 5.20    |
| 2 e. | "     | "               | " " " Spring "                               | " "     | "    | 5.00    |
| ?    | 3. a. | A. E. Chosen    | Witness Fee for Spring term of Circuit Court | 1927    |      | 6.30    |
| 3 b. | "     | "               | " " " Fall "                                 | " "     | "    | 5.00    |
| 3 c. | "     | "               | " " " Spring "                               | " "     | 1928 | 7.20    |
| 3 d. | "     | "               | " " " Fall "                                 | " "     | "    | 5.00    |
| 3 e. | "     | "               | " " " Spring "                               | " "     | 1929 | 5.00    |
| 0    | 4. a. | Harry Duggan    | Witness Fee for Spring term of Circuit Court | 1927    |      | 5.00    |
| 4 b. | "     | "               | " " " Fall "                                 | " "     | "    | 5.00    |
| 4 c. | "     | "               | " " " Spring "                               | " "     | 1928 | 5.20    |
| 4 d. | "     | "               | " " " Fall "                                 | " "     | 1928 | 7.00    |
| 4 e. | "     | "               | " " " Spring "                               | " "     | 1929 | 5.00    |
| 0    | 5. a. | E. A. Shaemser  | Witness Fee for Spring term of Circuit Court | 1927    |      | 5.00    |
| 5 b. | "     | "               | " " " Fall "                                 | " "     | "    | 6.00    |
| 5 c. | "     | "               | " " " Spring "                               | " "     | 1928 | 5.00    |
| 5 d. | "     | "               | " " " Fall "                                 | " "     | "    | 7.00    |
| 5 e. | "     | "               | " " " Spring "                               | " "     | 1929 | 5.00    |
| 0    | 6. a. | Byrd Roberts    | Witness Fee for Spring term of Circuit Court | 1927    |      | 5.00    |
| 6 b. | "     | "               | " " " Fall "                                 | " "     | 1927 | 6.20    |
| 6 c. | "     | "               | " " " Spring "                               | " "     | 1928 | 5.50    |
| 6 d. | "     | "               | " " " Fall "                                 | " "     | "    | 7.50    |
| 6 e. | "     | "               | " " " Spring "                               | " "     | 1929 | 5.50    |
| 0    | 7. a. | C. Rice         | Witness Fee for Spring term of Circuit Court | 1927    |      | 5.00    |
| 7 b. | "     | "               | " " " Fall "                                 | " "     | 1927 | 6.20    |
| 7 c. | "     | "               | " " " Spring "                               | " "     | 1928 | 5.50    |
| 7 d. | "     | "               | " " " Fall "                                 | " "     | "    | 7.50    |
| 7 e. | "     | "               | " " " Spring "                               | " "     | 1929 | 5.50    |
| 0    | 8. a. | Wm. R. Ruddy    | Witness Fee for Spring term of Circuit Court | 1927    |      | 5.00    |

Defendant would show unto the Court, and so alleges that neither of the witnesses whose names appear above, were examined as a witness for the state in the trial of the cause, all of said witnesses being present in Court and sworn as a witness in behalf of the state in said cause with the exception of the witnesses, Dr. Wm Holmes, Martin Crosby, and Frank Barchard.

Defendant alleges, and charges that the items of cost herein above set out are not proper items of cost to be taxed, and charges against this defendant, and should not be in said bill of cost, and the defendant, therefore moves the Court that the cost in this case be retaxed and that the items of costs herein ~~after~~ above mentioned be stricken from the cost for which this defendant is liable, and that the clerk of this Court be ordered, and directed to re-tax said cost, and in making up the cost for which defendant is liable to omit as items of cost against this defendant the items hereinabove mentioned.

This 24<sup>th</sup> day of April, 1929

J. Jenkins  
C. E. Hamilton  
atty for Deft

To Hon. J. S. Biggs,  
Solicitor,  
Contra

This motion coming on to be heard is continued for hearing till Monday, August 5<sup>th</sup>, 1929. - <sup>Assurance of Ex-</sup> <sup>4/26/29.</sup> ~~section suspended~~ - F. W. Hare  
Judge

This motion coming on to be heard, and the Court having taken evidence touching same, and being of the opinion that same should be granted, it is ordered adjudged & decreed that said motion be, and same hereby is granted and allowed & the items of costs specified in said motion are stricken from the cost bill - This Aug. 5<sup>th</sup> 1929.

F. W. Hare  
Judge