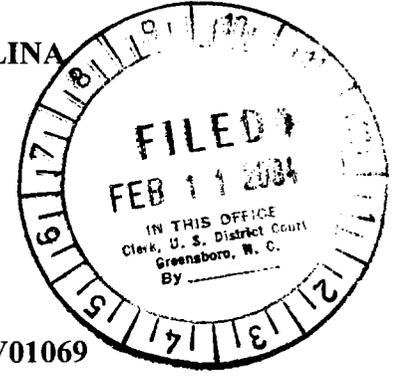


S/um

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



INTERSTATE INDEMNITY COMPANY,)
)
Plaintiff,)
)
v.)
)
DAN BLACK,)
)
Defendant.)

1:02CV01069

SANCTION AWARD

On October 24, 2003, the Court entered an Order Compelling Discovery and Imposing Sanctions upon Interstate Indemnity Company. (Pleading No. 30.) The Court deferred setting the amount of the sanction award until it received Defendant's affidavit of attorney's fees and costs, and Plaintiff's response thereto. Further, the Court noted that its award would await final judgment in the case. The parties have now advised that they have settled all matters in dispute in this litigation, except for the amount of sanctions against Interstate under the October 24, 2003 Order. The parties have stipulated that their settlement agreement constitutes "final judgment" and the Court should now determine the amount of the discovery sanction to be paid by Plaintiff Interstate to Defendant Black.

In its Order of October 24, 2003, the Court found Plaintiff's discovery failures to be wholly unjustified under the test of Rule 37(a)(4) of the Federal Rules of Civil Procedure. By affidavit of counsel, Defendant has shown that it incurred attorney's fees of \$6,242.00 and costs of \$302.30 in securing the order compelling discovery. Plaintiff argues in response that these amounts are