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STATE OF MINNESOTA | TAX COURT

COUNTY OF LAKE | REGULAR DIVISION

Karl Johansson and Elizabeth A. Johansson,

Petitioners,

vs.

County of Lake,

Respondent.

ORDER ON REQUEST TO RECONSIDER COST AWARD

File Nos.: 38-CV-22-145
38-CV-23-156
38-CV-24-140
38-CV-25-209

This matter came before the Honorable Jane N. Bowman, Judge of the Minnesota Tax Court, on Petitioners' request for leave to file a motion for reconsideration of the court's order on motion for costs.

William M. Burns, Mark D. Pilon, and Caroline R. Prince, Hanft Fride, P.A., represent Petitioners Karl Johansson and Elizabeth A. Johansson.

Russell H. Conrow, Assistant County Attorney, represents Respondent Lake County.

Having successfully challenged their property tax assessments for taxes payable 2022-2025, the Johanssons filed a motion for costs and disbursements pursuant to Minnesota Statutes section 271.19 (2024). Lake County responded, and this court filed an order awarding certain costs and disbursements. The Johanssons then filed a reply brief and now ask us to reconsider our costs award, which we address below.

ORDER

1. We affirm our May 6, 2026 order awarding statutory costs, court filing fees, and court reporter and transcript fees totaling $2,558.50.

2. We modify our May 6, 2026 order on the Johanssons' expert witness testimony recoverable costs to the amount of $1,275 (2.5 hours at $510 per hour), for a total award of $3,833.50.

IT IS SO ORDERED.

BY THE COURT:

Jane N. Bowman

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Jane N. Bowman, Judge
MINNESOTA TAX COURT

Dated: July 24, 2026

MEMORANDUM

I. Background

As detailed in the court's previous order awarding costs and disbursements,[1] Karl Johansson and Elizabeth A. Johansson challenged their property tax assessments for taxes payable in 2022-2025, alleging their property had been overvalued.[2] Trial in these consolidated matters was held on October 14, 2025,[3] and the court found in favor of the Johanssons. *Johansson v. Cnty. of Lake*, No. 38-CV-22-145 et al., 2026 WL 492056, at *2, *9 (Minn. T.C. Feb. 20, 2026). Having resolved the valuation dispute, the Johanssons then timely filed a motion for costs and disbursements in the amount of $39,404.75.[4]

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[1] Order Mot. Costs (filed May 6, 2026).

[2] Pay 22 Pet. (filed Apr. 25, 2022); Pay 23 Pet. (filed Apr. 17, 2023); Pay 24 Pet. (filed Apr. 23, 2024); Pay 25 Pet. (filed Apr. 24, 2025).

[3] *See* T.C. Not. Remote Hr'g (filed Sept. 30, 2025).

[4] Pet'rs' Not. Mot. & Mot. Costs & Disbursements (filed Apr. 23, 2026); Pet'rs' Mem. Law Supp. Mot. Costs & Disbursements (filed Apr. 23, 2026).

Per the Johanssons' request (without objection from the County), the court granted statutory costs, filing fees, and court reporter and transcript fees in the amount of $2,558.50.[5] The County objected to, and the court denied, the remaining requested amount for their expert's appraisal report, preparation for trial, and observation of the trial.[6] Instead, the court awarded $775 (2.5 hours at $310 per hour) for their expert's trial testimony, for a total costs and disbursements award of $3,333.50.[7] The day after our order awarding costs was filed, the Johanssons filed a reply memorandum of law in support of their motion for costs and disbursements.[8] With this request for leave to file a motion for reconsideration, the Johanssons posit the court's order was filed before they were able to submit a reply memorandum of law responding to the County's objections.[9]

II. GOVERNING LAW

"The general rule in our legal system is that each party must pay its own attorney's fees and expenses …." *Perdue v. Kenny A. ex rel. Winn*, 559 U.S. 542, 550 (2010). Minnesota statutes and case law, however, allow for reimbursement of costs and disbursements in some circumstances. As to experts generally, "[t]he judge of any court of record … may allow such fees or compensation as may be just and reasonable." Minn. Stat. § 357.25 (2024). The Legislature has provided for the taxation of costs and disbursements in tax court appeals: "Upon the determination

[5] Pet'rs' Mem. Law Supp. Mot. Costs & Disbursements; Resp't's Obj. Pet'rs' Mot. Costs (filed Apr. 30, 2026); Order Mot. Costs.

[6] Resp't's Obj. Pet'rs' Mot. Costs; Order Mot. Costs 3.

[7] Order Mot. Costs 4.

[8] Pet'rs' Reply Mem. Law Supp. Mot. Costs & Disbursements (filed May 7, 2026).

[9] Letter from Petitioners' attorney Mark D. Pilon to Judge Jane N. Bowman (dated June 3, 2026) (requesting leave pursuant to Minn. R. 8610.0080 to file a motion for reconsideration of the order on motion for costs). Minnesota Tax Court Rule 8610.0150 governing costs motions allows for the opposing party (here, Lake County) to file and serve an objection, but the rule does not allow for a reply memorandum. Nevertheless, we substantively respond to the Johanssons' request.

of any appeal … before the Tax Court … , the costs and disbursements shall be taxed and allowed in favor of the prevailing party and against the losing party as in civil actions ….” Minn. Stat. § 271.19. The procedural requirements for a costs and disbursements motion are specified by tax court rule. Minn. R. 8610.0150.

Property tax appeals are subject to additional standards. “[W]hen an appeal is taken to the Tax Court in any case dealing with property valuation, assessment, or taxation for property tax purposes, the provisions of … chapter 278 shall apply ….” Minn. Stat. § 271.06, subd. 1 (2024). Section 278.07 addresses the award of costs and disbursements in property tax appeals specifically, and provides in part as follows:

> Judgment shall be for the amount of the taxes for the year as the court shall determine the same, less the amount paid thereon, if any.… If the tax so determined is decreased from the amount originally levied, the court may, **in its discretion**, award disbursements to the petitioner, which shall be taxed and allowed and be deducted from the amount of the taxes as determined ….

Minn. Stat. § 278.07 (2024) (emphasis added).

Generally, then, an award of costs and disbursements is discretionary. *See, e.g.*, *Cambridge Apartments v. Cnty. of Hennepin*, No. TC-19156, 1995 WL 225477, at *1 (Minn. T.C. Apr. 13, 1995) (so holding). This court has consistently “allowed for statutory costs, filing fees, court reporter fees, and fees related to time an expert witness spends testifying at trial.” *Nolan v. Cnty. of Scott*, Nos. 70-CV-10-4233 & 70-CV-10-4240, 2012 WL 2513673, at *1 (Minn. T.C. June 27, 2012); *see also Macy’s Retail Holdings, Inc. v. Cnty. of Hennepin*, Nos. 27-CV-15-6881 & 27-CV-16-4588, 2020 WL 3476882, at *4 (Minn. T.C. June 12, 2020) (“Under the plain meaning of [Minn. Stat. § 271.07 (2018)], the cost of the trial transcript, in addition to the court reporter’s appearance fee, is recoverable.”). We also have discretion to award miscellaneous costs and disbursements, such as costs for photocopying. *Beck v. Cnty. of Todd*, No. 77-CV-10-465, 2014

WL 108572, at *1 (Minn. T.C. Jan. 10, 2014). *See also* Minn. R. Gen. Prac. 127 (expert witness fees must be "reasonable").

III. ANALYSIS

In support of their motion for costs and disbursements, the Johanssons submitted an affidavit of costs paid to prosecute their valuation appeals, which were: statutory costs under Minnesota Statutes section 549.02 (2024) ($200), court filing fees for tax petitions filed for years 2022-2025 ($1,200), court reporter and transcript fees ($1,158.50), and appraisal fees and appraisal-related consulting services, including the narrative appraisal report, pretrial preparation, trial attendance, testimony, and expanded-scope work ($36,846.25), totaling $39,404.75.[10] Alternatively, the Johanssons requested "the maximum portion of those charges the Court deems reasonable as expert or appraisal-related disbursements."[11]

The County timely served its objection to the request for costs and disbursements, objecting only to certain costs included in the Johanssons' motion.[12] The County did not dispute, and we agreed, that the Johanssons should be awarded statutory costs, court filing fees, and court reporter and transcript fees, totaling $2,558.50. *See Nolan*, 2012 WL 2513673, at *1 (allowing for reimbursement of "statutory costs, filing fees, [and] court reporter fees"); *Menard, Inc. v. Cnty. of Washington*, No. 82-CV-14-1681 et al., 2018 WL 893889, at *2 (Minn. T.C. Jan. 26, 2018) (finding the cost of the trial transcript recoverable under the plain meaning of Minn. Stat. § 271.07).

The County limited its objections to the appraisal fee and the expert's time spent observing and preparing for trial, asking the court to limit the Johanssons' expert testimony reimbursement

[10] Pet'rs' Mem. Law Supp. Mot. Costs & Disbursements 2; Aff. Mark D. Pilon (signed Apr. 23, 2026) ¶ 3.

[11] Pet'rs' Mem. Law Supp. Mot. Costs & Disbursements 2.

[12] Resp't's Obj. Pet'rs' Mot. Costs 2.

to time spent testifying (totaling $755, calculated at 2.5 hours at $310 per hour).[13] Indeed, our case law historically allows for costs "related to time an expert witness spends testifying at trial." *Nolan*, 2012 WL 2513673, at *1. Other taxpayers have requested, as Petitioners have done here, that reimbursement of appraisal fees and trial preparation time for an expert be eligible for reimbursement pursuant to our discretionary authority. *See Podany v. Cnty. of Hennepin*, No. 27-CV-16-05625, 2019 WL 1560856, at *2 (Minn. T.C. Apr. 5, 2019) (awarding costs but rejecting the appraisal fees and reducing witness testimony fees to $300 for the expert's two hours of trial testimony).

While it is true the court has discretion in awarding costs, Minn. Stat. § 278.07, "this court has historically limited recovery to fees 'for time the expert witness spent testifying at trial, and not time spent observing the trial, preparing for trial, or for the appraisal fee.'" *Podany*, 2019 WL 1560856, at *2 (quoting *Nolan*, 2012 WL 2513673, at *2). We see no reason to deviate from our traditional awards of costs and fees in this matter, nor are we convinced we should stray further from the maxim that parties should bear their own litigation costs here. *See Perdue*, 559 U.S. at 550.

As such, we affirm our prior costs order with one minor modification. With the May 7, 2026 reply memorandum, the Johanssons clarify that their expert's hourly rate for trial testimony is $510, rather than the $310 that the County acquiesced to and the court awarded.[14] With this

[13] *See* Resp't's Obj. Pet'rs' Mot. Costs 2; Order Mot. Costs 3, 3 n.8.

[14] Order Mot. Costs 3, 3 n.8; Pilon Aff. ¶ 4, Ex. B (Hosch Appraisal & Consulting invoice dated December 5, 2025, stating Mr. Barclay billed "17.5 hours Trial Prep and Testimony @ $510 per hour"). To be clear, we are not awarding 17.5 hours at $510 per hour to Petitioners. Rather, we look to this line item to support Mr. Barclay's hourly rate for trial testimony.

modification, we recalculate Petitioners' recoverable expenses related to expert testimony to $1,275.[15]

Finally, we note Rule 68 of the Minnesota Rules of Civil Procedure provides a mechanism to shift costs, and parties may analyze their cases and utilize Rule 68 where appropriate. Minn. R. Civ. P. 68; *see also* Minn. Stat. § 278.05, subd. 5 (2024) ("Offer to reduce valuation" also affecting costs and disbursements). Rule 68's cost-shifting mechanism "was designed to encourage settlement and decrease litigation." *See Collins v. Minn. Sch. of Bus., Inc.*, 655 N.W.2d 320, 324 (Minn. 2003) (citations omitted); *see also* Minn. R. Civ. P. 68.04 advisory committee's comment to 2008 amendment (revising the rule "to make it more effective in its purpose of encouraging the settlement of litigation").

J.N.B.H.

[15] 2.5 hours at $510 per hour = $1,275.