§ 2304. Costs of appeal

1. The appellate court may award costs of the appeal as follows:

(a) Upon an appeal in a proceeding to construe a will, to any party to the appeal.

(b) Upon an appeal in any other proceeding, to any party who

(i) has succeeded therein in whole or in part, or

(ii) has participated therein as a fiduciary, guardian ad litem, guardian, committee or conservator of a person under disability, or

(iii) is named as an executor in a paper propounded by him in good faith as the will of the decedent.

2. The court may direct that the costs shall abide the event of a new trial or of the subsequent proceedings in the surrogate's court.

3. Costs may be made payable out of the estate, or if awarded to a successful party, personally by the unsuccessful party, as directed by the appellate court or if such direction be not given, as directed by the court.

4. Costs of an appeal awarded in the court shall be pursuant to CPLR 8203 and 8204.