

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND



GUIDELINES FOR BILLS OF COSTS

JUNE 2010

These guidelines are provided by the Clerk's Office to assist parties in properly filing Bills of Costs with this Court. Litigants are encouraged to review this document thoroughly. These guidelines are not to be considered legal advice and they should not be cited as legal authority. They are subject to exception and modification as needed in the interests of justice, and nothing in these guidelines is meant to expand or limit the authority of this Court or the Clerk to tax costs under 28 U.S.C. § 1920. Please use these guidelines in conjunction with the Federal Rules of Civil and Appellate Procedure and the Local Rules of this Court.

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I. TAXATION OF COSTS BY THE CLERK

A. BACKGROUND

Under [28 U.S.C. § 1920](#) and [Fed. R. Civ. P. 54\(d\)](#), a prevailing party—the one in whose favor judgment is entered—may request the Clerk of Court to tax allowable costs in a civil action as part of a judgment or decree. The prevailing party begins this procedure by filing a Bill of Costs on form A0 133, available on the Court’s [website](#) or in the Clerk’s Office.

B. WHAT TO FILE

1. *Bill of Costs form (A0 133) and the required supporting documentation*

Supporting documentation includes materials—such as copies of vouchers, bills, and canceled checks—clearly showing the amount of costs and their purpose. See [Local Rule 109.1.b \(D. Md. 2010\)](#).

Note 1: The Bill of Costs form is available [here](#) (PDF) and [here](#) (Word).

Note 2: When appropriate, these guidelines explain when documentation other than receipts and bills must be submitted.

2. *Affidavit and supporting memorandum*

The affidavit should verify (a) the items claimed in the Bill of Costs are correct, (b) the costs have been necessarily incurred in the case, and (c) the services for which fees have been charged were actually and necessarily performed.

The supporting memorandum should explain the “grounds and authorities” supporting each request. For example, a request for the cost of a deposition should be supported by both a reference to 28 U.S.C. § 1920(2) and an explanation of why that particular deposition was necessary to the case. See [Local Rule 109.1.b \(D. Md. 2010\)](#).

Note: An affidavit and supporting memorandum are not required when the prevailing party only seeks the Court’s filing fee. See [Local Rule 109.1.b \(D. Md. 2010\)](#).

3. *Certificate of Service*

Cross-Reference: [CM/ECF Procedures Related to Bills of Costs](#)

C. WHEN TO FILE

1. *Trial costs*

Unless otherwise ordered, a Bill of Costs must be filed within fourteen (14) days of the entry of judgment, or the entry of an order denying a motion filed under Fed. R. Civ. P. 50(b), 52(b), or 59. See [Local Rule 109.1.a \(D. Md. 2010\)](#).

2. *Appellate costs*

A Bill of Costs incurred on appeal expenses taxable in this Court should be filed within fourteen (14) days of the issuance of the mandate by the Court of Appeals or, in the event of review by the Supreme Court, within fourteen (14) days of the entry of judgment by the Supreme Court. See [Local Rule 109.1.a \(D. Md. 2010\)](#); see also [Fed. R. App. P. 39\(e\)](#).

Note 1: Non-compliance with these time limits shall be deemed a waiver of costs. See [Local Rule 109.1.a \(D. Md. 2010\)](#).

Note 2: Standard rules for calculation of dates under the Federal Rules of Civil Procedure apply. See Fed. R. Civ. P. 6.

D. WHEN TO FILE AN OBJECTION

The opposing party must file any memorandum in opposition to any costs within fourteen (14) days of service of the Bill of Costs. See [Local Rule 109.1.c \(D. Md. 2010\)](#).

The prevailing party must file any reply to the objection within fourteen (14) days of service of the opposing memorandum. See [Local Rule 109.1.c \(D. Md. 2010\)](#).

Note: Even if an opposing party does not file an objection, the Clerk will still review the Bill of Costs and deny any requested costs that are not permitted under [28 U.S.C. § 1920](#) and these guidelines.

E. CASES INVOLVING MULTIPLE PARTIES

In cases involving more than a single plaintiff and a single defendant, the Clerk will not award the same cost more than once.

Generally, where multiple prevailing parties or multiple losing parties are represented by the same counsel, it is assumed that they may be treated as a single party for purposes of taxing costs. If this is not the situation, a party should provide an explanation as to why the parties should be treated differently and how.

Where multiple prevailing parties or multiple losing parties are represented by different counsel, it is assumed they should be treated as separate parties for purposes of taxing costs. In this situation, the party filing the Bill of Costs or the opposing party should provide an explanation as to which costs are attributable to each party and how they should be apportioned.

Note: If there are multiple parties involved and an insufficient explanation is provided as to how to apportion costs, the Clerk may deny all costs and the party may file a motion with the presiding judge to review the Clerk's decision.

F. PROCEDURES AFTER FILING THE BILL OF COSTS

After receiving the Bill of Costs and any opposition memoranda, the Clerk, or her designee, will apply these guidelines and tax costs without additional notice or hearing on the issue.

Taxation requests are reviewed after (1) the Court has ruled on any post-judgment motions and (2) the period for filing an appeal expires.

If the case is appealed, the Clerk will not review the taxation request until after the appellate mandate issues.

Note: When the interests of justice so require or when the issue of taxation requires a factual determination, the Clerk will forward a Bill of Costs to the assigned judge for resolution of taxation issues.

G. PROCEDURES AFTER COSTS ARE TAXED BY THE CLERK

1. *Motion to Review the Clerk's Order Taxing Costs*

Under [Fed. R. Civ. P. 54\(d\)\(1\)](#), a party may move for review of the Clerk's taxation of costs within seven (7) days of taxation.

2. *Payment for Costs*

Once the Court has ruled on a motion for review or after the time for seeking review has expired, the amount of the cost judgment should be paid directly to the prevailing party.

A taxed party must file a satisfaction of judgment once the cost judgment has been satisfied.

Note: Costs are not processed through the Clerk's Office.

II. TAXABLE COSTS

A. BACKGROUND

Only those costs specifically mentioned in [28 U.S.C. § 1920](#) are taxable. The Clerk will deny all other requested costs, even if the opposing party has failed to make an objection.

Prevailing parties are responsible for providing the required documentation to support their Bills of Costs, including clearly demonstrating how the documents support each item.

The Clerk will deny costs submitted without supporting documentation or with an unclear explanation in the supporting memorandum.

B. FEES OF THE CLERK, 28 U.S.C. § 1920(1)

The following fees of the Clerk are taxable.

- a. Filing fee for a complaint, removal, or habeas corpus petition filed in federal court.
- b. Appellate fees pursuant to [Fed. R. App. P. 39\(e\)](#). See [II.K Costs on Appeal](#).
- c. Fee charged by out-of-district federal courts for filing notice of taking deposition.

Note: Supporting documentation is not needed for fees paid to the Clerk of this Court.

C. FEES OF THE MARSHAL, 28 U.S.C. § 1920(1)

The following fees of the Marshal are taxable.

- a. Fees under 28 U.S.C. § 1921; and
- b. Reasonable costs paid to private process servers when service by the Marshal is prohibited by Local Rule 103.2 (D. Md. 2010).

Note: Generally, the Clerk will tax reasonable service fees for (a) summonses, (b) trial subpoenas for witnesses who actually testified at trial, and (c) deposition subpoenas where the cost of the deposition has also been taxed.

D. FEES FOR PRINTED AND ELECTRONICALLY RECORDED TRANSCRIPTS
NECESSARILY OBTAINED FOR USE IN THE CASE, 28 U.S.C. § 1920(2)

1. *Taxable*

The following fees of the court reporter are taxable and requests for taxation must also include the additional documentation and information stated in each category. To be taxable, a transcript cost, including copies of transcripts, must be “necessarily obtained for use in the case,” 28 U.S.C. § 1920(2), and “reasonably necessary at the time of its taking,” *LaVay Corp. v. Dominion Fed. Sav. & Loan Ass’n*, 830 F.2d 522, 528 (4th Cir. 1987). The following list includes the most commonly taxable court reporter fees.

In addition to the documentation explained below in [Documentation Requirements for Transcript Costs](#), requests for taxation must also include the additional documentation and information stated in each category.

- a. Transcript procured at the direction of the Court.
 - *Attach the order.*
- b. Transcript prepared under stipulation of parties to tax as costs.
 - *Include the stipulation.*
- c. Transcript of deposition of a party to the case.
- d. Transcript of deposition of person who testified at trial.
 - *Note the date(s) the person testified at trial.*
- e. Transcript admitted into evidence or used at trial to impeach a witness or witnesses.
 - *Note the date(s) the transcript was read into the record.*
- f. Transcript used in support of a motion.
 - *Note the title of the motion, the date it was filed, and where in the motion the transcript was used.*
- g. Electronic media depositions used at trial, such as a videotape, DVD, or audio recording.
 - *Note the date(s) the deposition was presented into the record.*
- h. Court reporter fees for attendance and travel for depositions.
- i. Costs of copies of papers obtained as exhibits in the deposition.
- j. Transcript ordered for purposes of appeal.

- k. Cost of copies of transcripts of an opposing party's noticed depositions.

Note 1: Only the cost of one transcript will be allowed if the transcript is otherwise taxable under categories a-k.

Note 2: The Clerk will generally not tax the costs of both an electronically recorded deposition transcript and the printed deposition transcript unless the prevailing party explains why both were necessary for use in the case.

Note 3: Court reporter fees should be reasonable, and as a guide, the Court takes into account the existing maximum rates for transcript fees for official court reporters as set by the Judicial Conference of the United States and adopted by this Court. See [Administrative Order 2007-3](#) (D. Md. Oct. 25, 2007). Absent an objection from the opposing party, the Clerk will tax the actual rate.

2. *Not Taxable*

The following fees of the court reporter are not taxable.

- a. Cost of daily or expedited copy produced solely for the convenience of counsel, absent prior court approval.
- b. Transcript used primarily for trial preparation or discovery.
- c. Long-distance phone charges for telephonic depositions.
- d. Attorneys' fees and expenses incurred while taking the deposition, including attorney travel expenses.
- e. Court reporter postage or delivery charges for a transcript.

3. *Documentation Requirements for Transcript Costs*

Any invoice or bill should clearly indicate (or include an attached explanation) the following.

- a. The transcript prepared (or copied),
- b. The number of pages in the transcript,
- c. The per page rate, and
- d. The total cost.

Note 1: For in-house copies, billing records may be submitted.

Note 2: The Clerk will not tax copy costs if the submitted materials do not clearly show whether all or a specific number of copies are taxable.

E. FEES AND DISBURSEMENTS FOR PRINTING, 28 U.S.C. § 1920(3)

These fees are typically taxed by the court of appeals in its mandate.

F. WITNESS FEES, 28 U.S.C. § 1920(3)

1. *Taxable*

The following witness fees are permitted under 28 U.S.C. § 1821. Requests for taxation must also include the additional documentation and information stated in each category.

- a. Statutory attendance fee: \$40.00 per day, which includes the time the witness was “necessarily occupied in going to and returning from the place of attendance at the beginning and end of such attendance.” See 28 U.S.C. § 1821(b).
 - *Provide the name of the witness and date(s) of attendance.*
- b. Mileage: Calculated at the rate for official government travel in effect at the time the travel took place as set by the General Services Administration. See 28 U.S.C. § 1821(c)(2); <http://www.gsa.gov/mileage>.
 - *Provide the name of the witness, the date(s) of travel and the applicable mileage rate.*
- c. Subsistence: For “when an overnight stay is required at the place of attendance because such place is so far removed from the residence of such witness as to prohibit return thereto from day to day.” See 28 U.S.C. § 1821(d)(1). The allowance may not exceed the maximum per diem allowance for official government travel in effect at the time the stay took place as set by the General Services Administration. See 28 U.S.C. § 1821(d)(2); <http://www.gsa.gov/perdiem>.
 - *Provide the name of the witness, an explanation of why the overnight stay was required, receipts for relevant expenses, and the applicable per diem rate.*
- d. Common carrier expenses for travel. See 28 U.S.C. § 1821(c)(1).
 - *Provide the name of the witness, the date(s) of travel, and the receipt from common carrier.*
- e. Other travel expenses allowed under 28 U.S.C. § 1821(c)(3): “Toll charges for toll roads, bridges, tunnels, and ferries, taxicab fares between places of lodging and carrier terminals, and parking fees (upon presentation of a valid parking receipt)”
 - *Provide the name of the witness, the date(s) of travel, and the receipt for travel expenses.*

2. *Non-Taxable*

The following witness fees are not taxable.

- a. Fees and expenses of parties.
- b. Fees paid to any witness, including expert witnesses, beyond the statutory daily attendance fee.
- c. Fees and expenses to witnesses who do not testify at trial, or whose depositions were not used in the pleading that terminated the litigation (such as a summary judgment motion).
- d. Fees and expenses paid to deponents when the cost of the deposition is not taxed by the Clerk.
- e. Witness expenses for rental vehicles.

G. FEES FOR EXEMPLIFICATION, 28 U.S.C. § 1920(4)

Exemplification costs typically include the costs for producing a demonstrative aid as an exhibit.

Generally, the Clerk will not tax exemplification costs unless the prevailing party received prior permission from the Court, or the parties agree, that these costs may be taxed.

Note: Attach the order to the receipt or voucher.
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H. COSTS OF MAKING COPIES OF ANY MATERIALS WHERE THE COPIES ARE NECESSARILY OBTAINED FOR USE IN THE CASE, 28 U.S.C. § 1920(4)

1. *Taxable*

The following copy costs are taxable at the lesser of actual cost or the copy fee rates in the Court's schedule of fees, as established under 28 U.S.C. § 1914 and listed on the [Court's website](#).

In addition to the documentation explained below in [Documentation Requirements for Copy Costs](#), requests for taxation must also include the additional documentation and information stated in each category.

- a. Exhibits that are conventionally filed with the Clerk.
 - *Note the name of the exhibit, any associated docket number, and the date of filing.*
- b. Any courtesy copies required to be provided to the presiding judge under the Court's [Civil Procedure Manual \(Electronic Filing Requirements and Procedures for Civil Cases\)](#).

- *Note the name of the pleading and the date of filing.*
- c. Documents that cannot be filed in CM/ECF that were required to be served on the opposing party.
 - *Note the name of the document(s) and the date(s) of filing.*
- d. Documents that were required to be served on the opposing party and were conventionally served on an opposing party because the party did not have a CM/ECF account.
 - *Note the name of the document(s) and the date(s) of filing.*

2. *Non-Taxable*

The following copy costs are not taxable.

- a. Copies obtained for discovery purposes.
- b. Copies retained by counsel for counsel's use.
- c. Copies provided to clients.

3. *Documentation Requirements for Copy Costs*

Any invoice or bill should clearly indicate (or include an attached explanation) the following.

- d. The document copied, including the docket number;
- e. The number of pages in the document;
- f. The number of copies made;
- g. The per page rate; and
- h. The total cost.

Note 1: For in-house copies, billing records may be submitted.

Note 2: The Clerk will not tax copy costs if the submitted materials do not clearly show whether all or a specific number of copies are taxable.

Note 3: Copy costs fees should be reasonable, and as a guide, the Court takes into account the existing photocopying rates on the Court's Schedule of Fees, set by the Judicial Conference of the United States. See [Schedule of Fees](#) (D. Md. June 29, 2009); <http://www.uscourts.gov/FormsAndFees/Fees/DistrictCourtMiscellaneousFeeSchedule.aspx>. Absent an objection from the opposing party, the Clerk will tax the actual copy rate.

I. DOCKET FEES, 28 U.S.C. § 1920(5)

Under 28 U.S.C. § 1923(a), the following attorney and proctor fees are taxable.

- a. \$20.00 on trial or final hearing, including the entry of default judgment.
- b. \$5.00 on discontinuance of a civil motion.
- c. \$5.00 on motion for judgment and other proceedings on recognizances.
- d. \$2.50 for each deposition admitted into evidence.

J. COURT-APPOINTED SERVICES, 28 U.S.C. § 1920(6)

The Clerk may tax the “[c]ompensation of court appointed experts, compensation of interpreters, and salaries, fees, expenses, and costs of special interpretation services under [28 U.S.C. § 1828].”

1. *Court Appointment*

When the Court appoints an expert or interpreter, the Court may direct one or more of the parties to compensate the interpreter and ultimately order the compensation paid to be taxed as costs OR the Court may direct that the taxed costs be used to reimburse the Court for providing such special interpretation services.

Note: Include a copy of the order.

2. *No Court Appointment*

When the prevailing party procured interpretation or translation services without prior Court approval, costs will be assessed only for those expenses necessarily incurred.

Note: The requesting party has the burden of showing that the interpretation or translation services were necessary at the time the services were received.

K. COSTS ON APPEAL, FED. R. APP. P. 39

The following appellate costs are taxable.

- a. Costs inserted in the mandate under Fed. R. App. P. 39(d).
- b. Costs taxable in this Court under [Fed. R. App. P. 39\(e\)](#):
 - 1) Costs for the preparation and transmission of the record;

- 2) Costs for the reporter's transcript, if needed for the appeal;
- 3) Premiums paid for a supersedeas bond or other bond to preserve rights pending appeal; and
- 4) Filing fee for the notice of appeal.

Note: Supporting documentation is not needed for fees paid to the Clerk of this Court.

L. SPECIAL PROCEEDINGS

When the action has had proceedings in courts other than this Court or the action is a special type of proceeding in this Court, the following rules on taxation apply.

1. *Suits in Admiralty*

Costs incurred in posting a bond may be taxable if deemed a reasonable expense. The prevailing party must have obtained the lowest available rate.

Note: Refer to 28 U.S.C. § 1923 for docket fee costs in admiralty.

2. *Court of Appeals*

See [II.K Costs on Appeal](#)

3. *United States Supreme Court*

Taxable costs are limited to fees of the clerk and costs of printing the joint appendix. When costs are allowed by the Supreme Court, an itemization of the costs will be inserted in the body of the mandate sent to the court below.

4. *State Courts*

For removed cases, any costs incurred in state court prior to removal are taxable in federal court, so long as the costs were taxable under state law. An affidavit and supporting documentation of costs incurred while proceeding in state court must accompany the Bill of Costs.

III. NON-TAXABLE COSTS

The following costs are generally not taxable.

1. *Travel and expenses of counsel, including investigation expenses.*
2. *Fees for computerized legal research.*
3. *Secretarial services, including word processing, typing charges, copy charges, and scanning charges that are incidental to an attorney's services.*
4. *Paralegal or investigative services.*
5. *Prejudgment and post-judgment interest.*
6. *Mediation costs.*
7. *Fees for postage, delivery (including overnight and courier services), and notary.*
8. *Long-distance telephone calls and fax charges.*
9. *Damage surveys.*
10. *Accountant's expenses.*
11. *Office overhead.*
12. *Admission fees for attorneys admitted pro hac vice.*

IV. CM/ECF PROCEDURES RELATED TO BILLS OF COSTS

The following CM/ECF events—in order of their use—are related to filing a Bill of Costs.

1. *Bill of Costs*

Use this event to file the Bill of Costs. All documentation, explanatory memoranda, and affidavits should be provided as attachments in the same event.

2. *Response in Opposition to Bill of Costs*

Use this event when a non-taxing party does not agree with the submitted Bill of Costs. An opposition memorandum and any supporting documentation should be provided as attachments in the same event.

3. *Reply to Response in Opposition to Bill of Costs*

Use this event when the taxing party files a response to an objection. A memorandum and any supporting documentation should be provided as attachments in the same event.

4. *Clerk's Order Taxing Costs*

The Clerk uses this event to enter a taxation of costs.

5. *Motion to Review the Clerk's Order Taxing Costs*

Use this event to file the motion. A supporting memorandum should be provided as an attachment in the same event.

V. APPENDIX

A. 28 U.S.C. § 1920

A judge or clerk of any court of the United States may tax as costs the following:

- (1) Fees of the clerk and marshal;
- (2) Fees of the court reporter for all or any part of the stenographic transcript necessarily obtained for use in the case;
- (3) Fees and disbursements for printing and witnesses;
- (4) Fees for exemplification and copies of papers necessarily obtained for use in the case;
- (5) Docket fees under section 1923 of this title;
- (6) Compensation of court appointed experts, compensation of interpreters, and salaries, fees, expenses, and costs of special interpretation services under section 1828 of this title.

A bill of costs shall be filed in the case and, upon allowance, included in the judgment or decree.

B. FED. R. CIV. P. 54(D) (2009)

(d) Costs; Attorneys' Fees.

(1) Costs Other than Attorneys' Fees.

Unless a federal statute, these rules, or a court order provides otherwise, costs—other than attorney's fees—should be allowed to the prevailing party. But costs against the United States, its officers, and its agencies may be imposed only to the extent allowed by law. The clerk may tax costs on 14 days' notice. On motion service within the next 7 days, the court may review the clerk's action.

Cross-Reference: [Local Rule 109.1 \(D. Md. 2010\)](#).

C. FED. R. APP. P. 39(E) (2009)

(e) Costs on Appeal Taxable in the District Court.

The following costs on appeal are taxable in the district court for the benefit of the party entitled to costs under this rule:

- (1) the preparation and transmission of the record;
- (2) the reporter's transcript, if needed to determine the appeal;
- (3) premiums paid for a supersedeas bond or other bond to preserve rights pending appeal; and
- (4) the fee for filing the notice of appeal.

D. LOCAL RULE 109.1 (D. MD. 2010)**Rule 109. Post-trial Proceedings****1. Bill of Costs****a. Time for Filing**

Unless provided by L.R. 109.2.c or otherwise ordered by the Court, a bill of costs shall be filed within fourteen (14) days of the entry of judgment, or of the entry of an order denying a motion, filed under Fed. R. Civ. P. 50(b), 52(b) or 59. A bill for costs incurred on appeal taxable in this Court should be filed within fourteen (14) days of the issuance of the mandate by the Court of Appeals or, in the event of review by the Supreme Court, within fourteen (14) days of the entry of judgment by the Supreme Court. Non-compliance with these time limits shall be deemed a waiver of costs.

b. Contents

In any case where any costs other than the fee for filing the action are being requested, the bill of costs shall be supported by affidavit and accompanied by a memorandum setting forth the grounds and authorities supporting the request. Any vouchers or bills supporting the cost being requested shall be attached as exhibits.

c. Objections

A party objecting to any requested costs shall submit a memorandum in opposition to the request within the time permitted by L.R. 105.2. If no such memorandum is filed within the required time, the Clerk may, without notice or hearing, tax all of the requested costs.