

UNITED STATES DISTRICT COURT

District of Minnesota

PROCEDURE FOR TAXING COSTS

The Clerk's Office is pleased to provide a guide entitled "Taxation of Costs in a Civil Case in the United States District Court for the District of Minnesota" for use by attorneys and legal staff. This guide will assist with the proper filing of Bill of Costs with this court and is available on the Court's website at www.mnd.uscourts.gov.

Costs shall be submitted on Form AO-133 which is provided by the Administrative Office of the United States Courts for this purpose. The form is available on our website at www.mnd.uscourts.gov and it can be requested from the Clerk's Office, United States District Court. The completed AO-133 form shall be submitted with substantiating documentation to the Minneapolis Clerk's office.

Costs generally are not taxed and the Bill of Costs should not be submitted until the following conditions are met:

1. **the time for filing of the Notice of Appeal has expired,**
2. **a decision on post-trial motions has been made,**
3. **the appeal has been decided on the merits or dismissed, or**
4. **Writ of Certiorari is denied and opinion of the Supreme Court is filed.**

Office Procedure

A briefing schedule is sent to counsel of record when the Bill of Cost is filed. An appearance before the Clerk is not required. Costs may be taxed as submitted if objections are not filed. If the matter of costs is resolved prior to taxation by the Clerk, written notification of disposition shall be submitted.

GENERAL INFORMATION

Taxation of Costs on Appeal	See FRAP, Rule 39(d) & (e). <i>NOTE: Costs granted at the Court of Appeals level are entered in the judgment rolls upon receipt of the Mandate in the District Court. DO NOT INCLUDE THESE COSTS IN THE AO-133 BILL OF COST FORM.</i>
Attorney Fees	Do not incorporate into the Bill of Costs; Refer LR54.3 and 28 U.S.C. § 2412.
Substantiating Documentation	Copies of receipts, statements, bills, checks, etc. must be submitted in support of costs and explanation of necessity for cost items claimed.
Deposition Costs	Generally allowed only when read into the record or received as evidence.
Exhibits	Large or unusual expenditures, such as models, must be approved by the court prior to trial or preparation, or they are generally not allowed. Exhibits must be identified by number if costs are claimed.
Copies	Generally not allowed <u>unless</u> received as an exhibit during trial (number identification). Certified or exemplified copies are generally allowed.
Costs Differentiated from Fees and Expenses	FRCP 54 and Wright & Miller, §§ 2666 and 2677.
Expert Witnesses	The Clerk is authorized to tax only the statutory witness fee of \$40 per day; subsistence if an overnight stay is required (eff. 10/01/03): Minneapolis \$161; St. Paul \$161; Duluth 6/1 to 10/31 \$128 and 11/1 to 5/31 \$99; Rochester \$112; Anoka County \$104; Dakota County \$119; Fergus Falls \$86.00, all other areas of state \$86.00. Mileage is reimbursed at \$0.375 per mile round trip travel (eff. 01/01/04). See 28 U.S.C. § 1821. Questions should be directed to the appropriate division (see below for numbers).
Air Travel	28 U.S.C. § 1821(c)(1): utilize common carrier at the most economical rate available. Receipt(s) must be furnished.

Reference: FRCP Rule 54(d); 28 U.S.C. §§ 1920, 1923, and 192 Federal Practice and Procedure, Wright & Miller Vol X.

For Information on taxation of costs, contact: Brian Saame, Pro Se Law Clerk, Minneapolis/St. Paul Divisions, 612-664-5035
Susan Anderson, Duluth Division Manager, 5th & 6th Divisions, 218-529-3502

UNITED STATES DISTRICT COURT

District of Minnesota

BILL OF COSTS

V.

Case Number: _____

Judgment having been entered in the above entitled action _____ against _____, the Clerk is requested to tax the following as costs:

Fees of the Clerk	\$ _____
Fees for service of summons and subpoena	_____
Fees of the court reporter for all or any part of the transcript necessarily obtained for use in the case	_____
Fees and disbursements for printing	_____
Fees for witnesses (itemize on reverse side)	_____
Fees for exemplification and copies of papers necessarily obtained for use in the case	_____
Docket fees under 28 U.S.C. 1923	_____
Costs as shown on Mandate of Court of Appeals	_____
Compensation of court-appointed experts	_____
Compensation of interpreters and costs of special interpretation services under 28 U.S.C. 1828	_____
Other costs (please itemize)	_____
TOTAL	\$ _____

SPECIAL NOTE: Attach to your bill an itemization and documentation for requested costs in all categories.

DECLARATION

I declare under penalty of perjury that the foregoing costs are correct and were necessarily incurred in this action and that the services for which fees have been charged were actually and necessarily performed. A copy of this bill was mailed today with postage prepaid to: _____.

Signature of _____

Name of Attorney: _____

For: _____ Date: _____
Name of Claiming Party

Costs are taxed in the amount of _____ and included in the judgment.

By: _____ Date _____
Clerk of Court Deputy Clerk

WITNESS FEES (computation, cf. 28 U.S.C. 1821 for statutory fees)							
NAME AND RESIDENCE	ATTENDANCE		SUBSISTENCE		MILEAGE		Total Cost Each Witness
	Days	Total Cost	Days	Total Cost	Miles	Total Cost	
					TOTAL		

NOTICE

Section 1924, Title 28, U.S. Code (effective September 1, 1948) provides:

“Sec. 1924. Verification of bill of costs.”

“Before any bill of costs is taxed, the party claiming any item of cost or disbursement shall attach thereto an affidavit, made by himself or by his duly authorized attorney or agent having knowledge of the facts, that such item is correct and has been necessarily incurred in the case and that the services for which fees have been charged were actually and necessarily performed.”

See also Section 1920 of Title 28, which reads in part as follows:

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

The Federal Rules of Civil Procedure contain the following provisions:

Rule 54 (d)

“Except when express provision therefor is made either in a statute of the United States or in these rules, costs shall be allowed as of course to the prevailing party unless the court otherwise directs, but costs against the United States, its officers, and agencies shall be imposed only to the extent permitted by law. Costs may be taxed by the clerk on one day’s notice. On motion served within 5 days thereafter, the action of the clerk may be reviewed by the court.”

Rule 6(e)

“Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, 3 days shall be added to the prescribed period.”

Rule 58 (In Part)

“Entry of the judgment shall not be delayed for the taxing of costs.”