UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

GUIDELINES FOR
FILING BILLS OF COSTS

Revised 10/2008

Frequently Asked Questions about Bills of Costs

Background

Under Fed. R. Civ. P. 54(d) and 28 U.S.C. §1920, a prevailing party may request the Clerk of Court to tax allowable costs in a civil action as part of a judgment or decree. This procedure is begun by filing a Bill of Costs on form AO133, available on the court's website or in the Clerk's Office

Who is the prevailing party?

The prevailing party is the one in whose favor judgment is entered. The plaintiff is the prevailing party when judgment is rendered in his or her favor. The defendant is the prevailing party when the proceeding is terminated by court-ordered dismissal or judgment in favor of the defendant.

What must be filed?

The following requirements must be met when filing a Bill of Costs:

- A completed Bill of Costs form (AO 133) must be submitted, accompanied by
- An affidavit of the party or counsel, verifying that
  - (i) the items claimed in the Bill of Costs are correct,
  - (ii) the costs have been necessarily incurred in the case, and
  - (iii) the services for which fees have been charged were actually and necessarily performed.
- All requested costs must be itemized and documented.

When must the Bill of Costs be filed?

A Bill of Costs must be filed within 30 days of the expiration for the time of filing a timely appeal if no notice of appeal has been filed, or within 30 days of the filing of the appellate mandate providing for the final disposition of any appeal to the Court of Appeals. (Local Rule 54.3)

How long does the other party have to object?

The opposing party must file a written objection to the Bill of Costs, incorporating a memorandum of law, within 21 days.

What costs are taxable?

Background

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

Documentation of costs is required

Counsel is responsible for providing the required receipts, orders, stipulations or other documentation to support their Bill of Costs. Costs submitted without supporting documentation will be denied.

FEES OF THE CLERK

The following fees of the Clerk are taxable:

- Filing fee for a complaint, removal, or habeas corpus petition filed in federal court.
- Docket fees, if applicable.

FEES OF THE COURT REPORTER

Fees of the court reporter for all or any part of the transcript necessarily obtained for use in the case are taxable, per 28 U.S.C. §1920(2).

Counsel must attach a copy of the Court's order directing preparation of transcript or the stipulation of the parties agreeing, if applicable, to the Bill of Costs. If transcript was used in support of a motion, counsel is required to provide the taxation clerk with the title of the motion and the approximate date it was filed. If transcript was used at trial, the date the transcript was read into the record must be noted on the supporting documentation. Costs will be denied without supporting documentation.

Taxable Transcript Fees

- Transcript procured at the direction of the Court.
- Transcript prepared under stipulation of the parties to tax as costs.
- Transcript used at trial to impeach witness(es).

Non-Taxable Transcript Fees

- Daily or expedited copy produced solely for the convenience of counsel, unless prior approval of the court is obtained.
- Transcript used primarily for trial preparation or discovery.
- Long distance phone charges for telephonic deposition.

Taxable Transcript Fees, contin.

- Transcript used in support of a motion.
- Electronic media depositions used at trial (e.g., video tape, DVD, audio).
- Court reporter fees for attendance and travel for depositions.
- Costs of the copies of papers obtained as exhibits in the deposition.
  Transcripts ordered for appeal purposes.
- The cost of the transcript and one copy will be allowed, if the transcript is taxable under the guidelines outlined above.

FEES FOR WITNESSES

If a witness is subpoenaed to trial, but does not testify, or if a witness is deposed, but the transcript is not used at trial or in support of a motion, the Clerk will not tax the fees and disbursements as to that witness (28 U.S.C. §1821; 28 U.S.C. §1920(3)). (See also Fed.R.Civ.P. 45(b)(2)).

Taxable Witness Fees

- Attendance, mileage and subsistence fees, if applicable. These costs are taxable only for the day(s) a witness testifies.
- Miscellaneous toll charges, taxicab fares between places of lodging and carrier terminals and parking fees.
- Common carrier fees at the most economical rate

Non-Taxable Witness Fees

- The expenses of witnesses who are themselves parties to the case are not normally taxable. (10 Wright, Miller, Kane Federal Practice and Procedure, Civil 2d §2678 at 376 (2d Ed. 1983)
- Compensation paid to an expert witness in excess of the statutory fees.

NOTE: Current witness fees, per diem and mileage rates can be found on the court's website at: http://www.med.uscourts.gov. Click on Operations and Filing/Current Fees and Rates.

FEES FOR SERVICE OF SUMMONS OR SUBPOENAS

The table below outlines the Taxable and Non-Taxable fees for the service of summons or subpoenas.

Taxable Service Fees	Non-Taxable Service Fees
• Service fees for summons and other intial process. (Fed.R.Civ. P. 4(c)(1))	• Service fees for discovery subpoenas
• Service fees for trial subpoenas for witnesses who testified at trial.	• Service fees for trial subpoena if witness did not testify.
• Service fees for deposition subpoenas for which deposition transcripts have been taxed as costs.	
• United States Marshal fees under 28 U.S.C. §1921.	

FEES FOR Exemplification

The costs of exemplification are taxable if necessarily obtained for use in the case. Exemplification is the making of an official and certified copy of a document or transcript that is used as evidence. Examples of items that may be exemplified include docket sheets, complaints, medical reports, police reports, weather reports, land records and criminal records.

FEES FOR PRINTING AND COPYING

Photocopying costs are taxable only to the extent that the copies were used as exhibits, furnished to the Court or opposing counsel, or were otherwise necessarily obtained for the case. Copies made for the convenience of counsel and not for use at trial are not taxable. The reasonable expense of preparing items such as charts, photographs, motion pictures and similar visual aids is taxable when the exhibits have been received in evidence and have been an aid to the Court.

OTHER NON-TAXABLE COSTS

Other non-taxable costs include:

- Attorney expenses incurred in attending depositions, conferences and trial.
- Expenses incurred by investigations.
- Paralegal, typing and or word processing charges.
- Mediation fees.
- Fees for postage, delivery or notary services.
- Long distance telephone and fax charges