

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BILL OF COSTS

NOTE: The Bill of Costs is due in this office *within 14 days from the date of the opinion, See FED. R. APP. P. & 5th Cir. R. 39*. Untimely bills of costs must be accompanied by a separate motion to file out of time, which the court may deny.

v. _____

No.

The Clerk is requested to tax the following costs against: _____

| COSTS TAXABLE UNDER Fed. R. App. P. & 5 th Cir. R. 39 | REQUESTED | | | | ALLOWED (If different from amount requested) | | | |
|---|---------------|----------------|----------------|------------|--|-----------------------|----------------|------------|
| | No. of Copies | Pages Per Copy | Cost per Page* | Total Cost | No. of Documents | Pages per Document | Cost per Page* | Total Cost |
| Docket Fee | | | | | | | | |
| Appendix or Record Excerpts | | | | | | | | |
| Appellant's Brief | | | | | | | | |
| Appellee's Brief | | | | | | | | |
| Appellant's Reply Brief | | | | | | | | |
| Other: <input type="text"/> | | | | | | | | |
| Total \$ <input type="text"/> | | | | | Costs are taxed in the amount of \$ <input type="text"/> | | | |

Costs are hereby taxed in the amount of \$ _____ this _____ day of _____, _____.

LYLE W.CAYCE, CLERK

State of _____
County of _____

By _____
Deputy Clerk

I _____, do hereby swear under penalty of perjury that the services for which fees have been charged were incurred in this action and that the services for which fees have been charged were actually and necessarily performed. A copy of this Bill of Costs was this day mailed to opposing counsel, with postage fully prepaid thereon. This _____ day of _____, _____.

 (Signature)

FIFTH CIRCUIT RULE 39

39.1 Taxable Rates. The cost of reproducing necessary copies of the briefs, appendices, or record excerpts shall be taxed at a rate of actual cost, or \$0.40 per cover, and \$.20 per page, whichever is less, including index, and internal pages, for any form of reproduction costs. The cost of the binding required by 5TH CIR. R. 32.2.3 that mandates that briefs must lie reasonably flat when open shall be a taxable cost but not limited to the foregoing rate. This rate is intended to approximate the current cost of the most economical acceptable method of reproduction generally available; and the clerk will, at reasonable intervals, examine and review it to reflect current rates. Taxable costs will be authorized for up to 15 copies for a brief and 10 copies of an appendix or record excerpts, unless the clerk gives advance approval for additional copies.

39.2 Nonrecovery of Mailing and Commercial Delivery Service Costs. Mailing and commercial delivery fees incurred in transmitting briefs are not recoverable as taxable costs.

39.3 Time for Filing Bills of Costs. The clerk must receive bills of costs and any objections within the times set forth in FED. R. APP. P. 39(e)(3). See 5TH CIR. R. 26.1.

FRAP 39. COSTS

(a) Allocating Cost Among the Parties. The following rules apply to allocating taxable costs among the parties unless the law provides, the parties agree, or the court orders otherwise:

- (1) if an appeal is dismissed, costs are allocated against the appellant;
- (2) if a judgment is affirmed, costs are allocated against the appellant;
- (3) if a judgment is reversed, costs are allocated against the appellee;
- (4) if a judgment is affirmed in part, reversed in part, modified, or vacated, each party bears its own costs.

(b) Reconsideration. Once the allocation of costs is established by the entry of judgment, a party may seek reconsideration of that allocation by filing a motion in the court of appeals within 14 days after the entry of judgment. But issuance of the mandate under Rule 41 must not be delayed awaiting a determination of the motion. The court of appeals retains jurisdiction to decide the motion after the mandate issues.

(c) Costs Governed by Allocation Determination. The allocation of costs applies both to costs taxable in the court of appeals under Rule 39(e) and to costs taxable in district court under Rule 39(f).

(d) Costs For and Against the United States. Costs for or against the United States, its agency, or officer will be allocated under Rule 39(a) only if authorized by law.

(e) Costs on Appeal Taxable in the Court of Appeals.

(1) Costs Taxable. The following costs on appeal are taxable in the court of appeals for the benefit of the party entitled to cost:

- (A) the production of necessary copies of a brief or appendix, or copies of records authorized by Rule 30(f);
- (B) the docketing fee; and
- (C) a filing fee paid it the court of appeals.

(2) Costs of Copies. Each court of appeals must, by local rule, set the maximum rate for taxing the cost of producing necessary copies of a brief or appendix, or copies of records authorized by Rule 30(f). The rate must not exceed that generally charged for such work in the area where the clerk's office is located and should encourage economical methods of copying.

(3) Bill of Costs: Objections; Insertion in Mandate.

(A) A party who wants costs taxed in the court of appeals must — within 14 days after judgment is entered— file with the circuit clerk, and serve an itemized and verified bill of those costs.

(B) Objections must be filed within 14 days after the bill of costs is served, unless the court extends the time.

(C) The clerk must prepare and certify an itemized statement of costs for insertion in the mandate, but issuance of the mandate must not be delayed for taxing costs. If the mandate issues before costs are finally determined, the district clerk must — upon the circuit clerk's request — add the statement of costs, or any amendment of it, to the mandate.

(f) 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:

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