TAXATION OF COSTS

(a) Within fourteen (14) days after entry of judgment under which costs may be claimed, the prevailing party may serve and file a cost bill in the form prescribed by the court, requesting an itemized taxation of costs. The cost bill must itemize the costs claimed and be supported by a certificate of counsel that the costs are correctly stated, were necessarily incurred in this action, and are allowed by law. The court will enforce the provisions of 28 U.S.C. § 1927 in the event an attorney or other person admitted to practice in this court causes an unreasonable increase in costs. Not less than twenty-one (21) days after receipt of a party's cost bill, the clerk, after consideration of any objections, will tax costs and serve copies of the cost bill upon all parties of record. The cost bill should reflect the clerk's actions to each item contained therein. Within fourteen (14) days after service by any party of its cost bill, any party may file and serve specific objections to any items setting forth the grounds for the objection.

(b) Generally, the prevailing party is the one who successfully prosecutes the action or successfully defends against it, prevails on the merits of the main issue, and the one in whose favor the decision or verdict is rendered and judgment entered.

(c) Costs must be taxed in conformity with the provisions of 28 U.S.C. § 1920-1923 and other provisions of law as may be applicable and any directives as the court may issue from time to time. Taxable items include:

(1) Clerk's Fees and Service Fees. Clerks fees (see 28 U.S.C. § 1920) and service fees as allowed by statute.

(2) Trial Transcripts. The cost of the originals of a trial transcript, a daily transcript, or of a transcript of matters prior or subsequent to trial, furnished the court are taxable at the rate authorized by the Judicial Conference when either requested by the court or prepared pursuant to stipulation. Acceptance by the court does not constitute a request. Copies of transcripts for counsel's own use are not taxable unless approved in advance by the court.

(3) Deposition Costs. The prevailing party may recover the following costs relative to depositions used for any purpose in connection with the case:

(A) The cost of the original deposition plus one copy (where prevailing party was the noticing party;

(B) The cost of a copy of a deposition (where prevailing party was not the noticing party; and

(C) The cost of video-taped depositions.

The prevailing party who noticed the deposition may recover the reasonable expenses incurred for reporter fees, notary fees and the reporter's/notary's travel and subsistence expenses. In addition, witness fees, whether or not the witness was subpoenaed are taxable at the same rate as attendance at trial. The reasonable fee for a necessary interpreter to attend a deposition is also taxable on behalf of the prevailing party. Attorney's fees and expenses incurred in arranging for or taking a deposition are not taxable.

(4) Witness Fees, Mileage and Subsistence. The rate for witness fees, mileage, and subsistence are fixed by statute (28 U.S.C. § 1821). Such fees are taxable even though the witness does not take the stand, provided the witness necessarily attends court. Such fees are taxable even though the witness attends voluntarily upon request and is not under subpoena. The mileage taxation is based on the most direct route. Mileage fees for travel and subsistence are taxable only for the reasonable period during which the witness is within the district. No party shall receive witness fees for testifying on their own behalf except where a party is subpoenaed to attend court by the opposing party. Witness fees for officers of a corporation are taxable if the officers are not defendants and recovery is not sought against the officers individually. Fees for expert witnesses are not taxable in a greater amount than is statutorily allowed for ordinary witnesses. Allowance of fees for a witness on deposition must not depend on whether the deposition is admitted in evidence.

(5) Copies of Papers and Exhibits. The cost of an exhibit necessarily attached to a document (or made part of a deposition transcript) required to be filed and served is taxable. The cost of reproducing the required number of copies of the clerk's record on appeal is allowable.

(6) Maps, Charts, Models, Photographs, Summaries, Computations and Statistical Summaries. The reasonable cost of maps, diagrams, visual aids, and charts are taxable if they are admitted into evidence. The cost of photographs are taxable if admitted into evidence or attached to documents required to be filed and served on opposing counsel. Enlargements greater that 8"x10" are not taxable except by order of the court. The cost of models is not taxable except by order of the court. The cost of compiling summaries, computations, and statistical comparisons is not taxable.

(7) Interpreter and Translator Fees. The reasonable fee of a competent interpreter is taxable if the fee of the witness involved is taxable. The reasonable fee of a competent translator is taxable if a document translated is necessarily filed or admitted in evidence.

(8) Other Items. Other items may be taxed with prior court approval.

(9) Certificate of Counsel. The certificate of counsel required by 28 U.S.C. § 1924 and the rules are *prima facie* evidence of the facts recited therein. The burden is on the opposing party to establish that a claim is incorrectly stated, unnecessary, or unreasonable.

(d) A review of the decision of the clerk in the taxation of costs may be taken by the court on a motion to retax by any party, pursuant to Fed. R. Bankr. P. 7054(b), upon written notice thereof, served and filed with the clerk within seven (7) days after the costs have been taxed in the clerk's office, but not after. The motion to retax must specify the ruling of the clerk excepted to, and no others will be considered. The motion will be considered and determined upon the same papers and evidence used by the clerk and upon such memoranda of points and authorities as the court may require. A hearing may be scheduled at the discretion of the court.

RELATED AUTHORITY

28 U.S.C. § 1920
Fed. R. Bankr. P. 7054(b)

Advisory Committee Notes:

This rule is generally consistent with the Local Rules of Civil Practice for the United States District Court for the District of Idaho, though there are minor differences.