

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA

IN THE MATTER OF
TAXATION OF COSTS
UNDER
FED. R. CIV. P. 54 (d)

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STANDING ORDER NO. 13

ORDER

Costs shall be taxed consistent with these guidelines:

1. Deposition Costs:

(a) The Clerk may tax the cost of an original deposition upon the written representation of counsel for a party claiming the cost that a substantial portion of the deposition was admitted in evidence on the trial of the case.

(b) The Clerk shall not otherwise tax the costs of either the original or a copy of the deposition (unless otherwise ordered by the court) and any party desiring to tax the cost of depositions other than those described in subparagraph (a) shall file in writing a motion to re-tax the costs pursuant to Fed. R. Civ. P. 54 (d) and Local Rule 54.1 and present the matter to the court.¹

2. Witness Costs:

(a) The Clerk shall not (unless otherwise ordered by the Court) tax fees for the attendance, subsistence, travel or other expenses incident to the attendance of witnesses in excess of the following:

(1) The attendance fee provided for in 28 U.S.C. § 1821 (b);

(2) The subsistence allowance provided for by 28 U.S.C. § 1821 (d) when an overnight stay is required because the place of attendance is so far from the witness' residence as to prohibit return thereto from day to day, the amount of the allowance being fixed by 5 U.S.C. § 5704;

(3) The mileage allowance provided for by 28 U.S.C. § 1821 § (c) (2), the amount of which is fixed by 28 U.S.C. § 5704;

(4) Where travel is by automobile to or from a place outside the district, that mileage allowance shall not exceed 100 miles each way. Where travel by automobile to or from a place within the district, actual mileage may be claimed even if it exceeds 100 miles each way. Where travel is other than by automobile, actual costs of travel may be claimed to the extent that the cost does not

¹The provisions of 28 U.S.C. §1920 (2) allow the taxation of fees of a court reporter who prepares a "stenographic transcript necessarily obtained for use in the case."

The trial judge has discretion in determining whether costs of copies are taxable and must decide whether the copies were necessarily obtained for use in the case. U.S. v. Kolesar, 313 F. 2d 835, 840 (5th Cir. 1963); generally the costs of copies are not taxable. Vorburger v. Georgia Ry. Co., 47 F.R.D. 571 (M.D. Ala. 1969).

exceed the mileage allowance of 100 miles each way.²

(5) No fees of expert witnesses in excess of the above-mentioned attendance, subsistence and travel fees may be taxed.³

(b) Any Party desiring to tax attendance, subsistence, travel or other witness fees or expenses other than those described in subparagraph (a) shall file in writing a motion to re-tax the costs pursuant to Fed. R. Civ. P. 54(d) and Local Rule 54.1 and present the matter to the court.

DONE this 11th day of June, 1997.

_____/s/_____
CHARLES R. BUTLER, JR.
CHIEF JUDGE, U. S. DISTRICT COURT

_____/s/_____
RICHARD W. VOLLMER, JR.
JUDGE, U. S. DISTRICT COURT

_____/s/_____
ALEX T. HOWARD, JR.
SENIOR U. S. DISTRICT JUDGE

_____/s/_____
WM. BREVARD HAND
CHIEF UNITED STATES JUDGE

_____/s/_____
VIRGIL PITTMAN
SENIOR U. S. DISTRICT JUDGE

_____/s/_____
DANIEL H. THOMAS
SENIOR U. S. DISTRICT JUDGE

²The Supreme Court has held that the long standing 100 mile rule is a proper and necessary consideration in exercising discretion in the field of awarding expenses and that a district court did not abuse its discretion in limiting the travel expenses of a witness from Saudi Arabia to 100 miles each way. Farmer v. Arabian Oil Company, 379 U.S. 227, 234-235, 85 S.Ct. 411, 416 (1964).

³Henkel v. Chicago, St. Paul, Minneapolis & Omaha Railway, 284 U.S. 444, 52 S. Ct. 223 (1932); Kivi v. Nationwide Mutual Ins. Co., 695 F. 2d 1285, 1289 (11th Cir. 1983).