

**Redline of Changes to Central District Local Rules
Proposed to Become Effective December 1, 2018**

**CHAPTER I
LOCAL CIVIL RULES**

L.R. 5-3 Serving Documents. Unless service is governed by F.R.Civ.P. 4, documents must be served as follows:

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L.R. 5-3.2 Service of Documents Filed Electronically.

L.R. 5-3.2.1 Service. Upon the electronic filing of a document, a “Notice of Electronic Filing” (“NEF”) will be automatically generated by the CM/ECF System and sent by e-mail to: (1) all attorneys who have appeared in the case in this Court ~~and who have consented to receive service through the CM/ECF System,~~ and (2) all *pro se* parties who have been granted leave to file documents electronically in the case pursuant to L.R. 5-4.1.1 or who have appeared in the case and are registered to receive service through the CM/ECF System pursuant to L.R. 5-3.2.2. Unless service is governed by F.R.Civ.P. 4 or L.R. 79-5.3, service with this electronic NEF will constitute service pursuant to the Federal Rules of Civil and Criminal Procedure, and the NEF itself will constitute proof of service for individuals so served.

Individuals who have not appeared in the case in this Court or, who are not registered for the CM/ECF System, ~~or who have not consented to receive service through the CM/ECF System,~~ must be served in accordance with F.R.Civ.P. 5, and proof of service on such individuals must be made by declaration in the form required by L.R. 5-3.1.2.

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~~***L.R. 5-3.2.3 Consent to Electronic Service.***~~ ~~An attorney who registers to file documents electronically through the CM/ECF System will be deemed to consent, for purposes of F.R.Civ.P. 5(b)(2)(E), to receive electronic service of documents through the CM/ECF System, unless the attorney submits a completed Central District Electronic~~

~~Service Exemption Form, which may be obtained from the Court's website.~~

~~A *pro se* litigant who registers to file documents electronically through the CM/ECF System pursuant to L.R. 5-4.1.1 or who registers to receive service of documents through the CM/ECF System pursuant to L.R. 5-3.2.2 will be deemed to consent, for purposes of F.R.Civ.P. 5(b)(2)(E), to receive electronic service of documents through the CM/ECF System.~~

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L.R. 54-1 Determination of Prevailing Party. The “prevailing party” entitled to costs ~~pursuant under~~ to F.R.Civ.P. 54(d) ~~shall be is~~ the party in whose favor judgment is ~~rendered entered~~, unless otherwise determined by the Court. When a case is dismissed or otherwise terminated voluntarily, the Court may, upon request, determine the prevailing party.

L.R. 54-2 Application to Tax Costs Pursuant to Under F.R.Civ.P. 54(d); Bill of Costs. ~~To request that any allowable costs be taxed, a prevailing party entitled to costs under F.R.Civ.P. 54(d)(1) must file an Application to the Clerk to Tax Costs as required by L.R. 54-2.1. Parties applying for or objecting to an a~~Application to the Clerk to ~~†Tax e~~Costs ~~pursuant to under~~ F.R.Civ.P. 54(d) must familiarize themselves with the Court’s Bill of Costs Handbook, available on the Court’s website at www.cacd.uscourts.gov.

L.R. 54-2.1 Filing and Form of Application to the Clerk to Tax Costs. Within 14 days after the entry of judgment ~~or order under which costs may be claimed, the a~~ prevailing party ~~entitled to claiming taxable costs shall must~~ file and serve, in accordance with L.Rs. 5-3 and 5-4.1, a completed Form CV-59 “Application to the Clerk to Tax Costs,” ~~including a detailed bill of costs. The bill must state separately and specifically each item of taxable All costs claimed. Sufficient documentation to support the amount and taxability of each item, such as an invoice, receipt, or other record of the expenditure, must be attached to the shall be specified on~~ Form CV-59 ~~when filed. so that the nature of the claim can be readily understood. If a court order or stipulation is required by these rules to support a particular item of costs, the order or stipulation must also be attached to the Form CV-59. Failure to include an item in a timely filed Application to the Clerk to Tax Costs or to attach sufficient documentation to support an item will constitute~~

~~grounds for not taxing that item. Failure to file an Application to the Clerk to Tax Costs within the time provided by this rule will be grounds for denial. No hearing on the application will be held unless the Clerk notifies the parties otherwise. Once the Clerk has determined the allowable costs, the Clerk will file the Bill of Costs electronically.~~

L.R. 54-2.2 Objections. Within 714 days after service of an Application to the Clerk to Tax Costs under L.R. 54-2.1, any party against whom costs are claimed may file and serve written objections to any cost claimed in the application. The grounds for each objection must be specifically stated. In the absence of a timely objection, any allowable item may be taxed as requested in the application. Any objections filed under this rule must contain a representation that counsel met and conferred in an effort to resolve disagreement about the taxable costs claimed in the bill, or that the objecting party made a good faith effort to arrange such a conference.

L.R. 54-2.3. Response to Objections. Within 3 days after service of an objection under L.R. 54-2.2, the party applying for costs may file and serve a written response to the objection.

L.R. 54-72.4 Clerk's Determination - Finality. No hearing on the application will be held unless the Clerk notifies the parties otherwise. After considering any objections to the Proposed Bill of Costs and any responses thereto, the Clerk will electronically file the bill of costs annotated to identify all taxed costs. shall tax costs to be included on the docket. The Clerk's determination shall be final unless modified by the Court upon review pursuant to under L.R. 54-82.5. The Clerk has no discretion to tax any item not identified as taxable in this L.R. 54 and its subparts.

L.R. 54-82.5 Review of Clerk's Determination. Review of A party may seek review of the Clerk's taxation of costs by filing and serving may be obtained by a motion to retax costs filed and served within seven (7) days of the Clerk's decision. That review will be limited to the record made before the Clerk, and encompass only those items specifically identified in the motion.

L.R. 54-3 Items Taxable as Costs. ~~The following items are taxable as costs:~~

L.R. 54-3.1 Clerk's Fees. ~~Filing fees~~ Fees listed in the Judicial Conference Schedule of Fees District Court Miscellaneous Fee Schedule, issued in accordance with 28 U.S.C. § 1914, that are actually paid to the Clerk in connection with a case are taxable. (excluding *pro hac vice* fees) and other fees not included in the District Court Miscellaneous Fee Schedule are not taxable.

L.R. 54-3.2 Fees for Service of Process. Reasonable fees for service of process under F.R.Civ.P. 4 (whether served by the United States Marshal or other persons authorized by F.R.Civ.P. 4) and reasonable fees for service of subpoenas pursuant to under F.R.Civ.P. 45 (excluding all messenger fees) are taxable, including reasonable fees for research, surveillance, wait time, and parking incurred in connection with service.

L.R. 54-3.3 United States Marshal's Fees. Fees and commissions paid to the United States Marshal ~~pursuant to under~~ 28 U.S.C. § 1921 are taxable.

L.R. 54-3.4 Reporter's Transcripts of Court Proceedings. Except as allowed by L.R. 54-4, the cost of a transcript of any court proceeding is not taxable unless, before the cost is incurred, it is approved by the judge or stipulated by counsel in writing to be recoverable. Unless the order or stipulation otherwise specifies, the taxable cost of such a transcript will be limited to the cost of the original and one copy of all or any part of a trial the transcript prepared after the proceeding for ordinary, non-expedited delivery and billed at the rates set by the Judicial Conference of the United States, a daily transcript, or a transcript of matters occurring before or after trial, if requested by the Court or prepared pursuant to stipulation.

L.R. 54-3.5 Depositions. Costs incurred in connection with ~~taking~~ oral depositions, ~~including~~ are taxable only to the extent set forth below:

(a) **Transcripts:** The reasonable cost of preparing the original and one copy of the transcription of the oral portion of all depositions for ordinary, non-expedited delivery after the deposition is taxable if the transcript is used for any purpose in connection with the case, including non-expedited transcripts, the reporter's appearance fee, Any additional charges paid to expedite the preparation of the transcription, and any charges for "real time" views of the transcription during the deposition, are not taxable unless the judge so orders or counsel stipulate in writing before the costs are incurred.

The reasonable cost of one additional copy of the transcript, in any form (including a rough draft), is taxable. The reasonable cost of one copy of the transcript is also taxable when purchased by a party that did not purchase the original. The transcript rates set by the Judicial Conference of the United States will generally be considered reasonable. For transcripts billed at higher rates to be taxable, an explanation of why higher rates were reasonable under the circumstances must be provided. In addition, reasonable fees for the following are taxable:

1. ~~for~~ binding,
2. ~~b~~Bates stamping,
3. non-expedited shipping and handling,
4. ~~processing fee,~~ ASCII disks,
5. production and code compliance charges,
6. electronic transmission charges ~~for non-expedited electronic~~ delivery of a transcript,
7. miniscripts, and
8. ~~witness handling charges,~~

~~but not including~~ ~~t~~The cost of videotaping or recording depositions ~~is not taxable unless recording the deposition by video or audio means was otherwise ordered by the Court before the taking of the deposition.~~ Failure to provide itemized invoices breaking out the per-page cost of transcripts from other costs, such as expediting, binding, or shipping fees, will be sufficient grounds for not taxing the cost.

- (b) **Reporters and Other Persons Required to Take, Report, or Transcribe a Deposition:** The reasonable fees of ~~the a deposition stenographic reporter and, if necessary to take the deposition, a notary and an interpreter,~~ are taxable for time attending a deposition and for time appearing at a properly noticed deposition ~~including reporter fees when a deponent fails to appear at a scheduled deposition,~~ ~~the notary, and any other persons required to report or transcribe the deposition, but not including the costs of~~ Reasonable travel and subsistence expenses of reporters, notaries, and interpreters are also taxable. Fees for video ~~or~~ and audio technicians are not taxable unless otherwise recording the deposition by video or audio means was ordered by the Court before the taking of the deposition. Attorneys' fees and

expenses incurred while taking or defending the deposition are not taxable.

- (c) ~~Reasonable witness fees paid to a deponent, including fees actually paid to an expert witness deponent pursuant to F.R.Civ.P. 26(b)(4)(E). However, such fees do not include expert witness fees paid to a trial witness in excess of the statutory witness fee unless otherwise ordered by the Court;~~
- (d) ~~Reasonable fees paid to an interpreter when necessary to the taking of the deposition; and~~
- (e) ~~**Exhibits:** The cost of copying or reproducing exhibits used at the deposition and made a part of the deposition transcript is taxable.~~

L.R. 54-3.6 Witness Fees. Statutory witness fees, including attendance, mileage or other travel expenses, a per diem subsistence allowance, and any other fees or expenses provided in 28 U.S.C. § 1821, are taxable when paid to a witness (including an officer or employee of a corporation or other entity if not a party in his or her own capacity and a party if subpoenaed by an opposing party) paid to witnesses, including:

- (a) ~~Per diem, mileage, subsistence, and attendance fees as provided in 28 U.S.C. § 1821 paid to witnesses subpoenaed or actually attending the proceeding; who actually attends any court proceeding scheduled in connection with the case or before any person authorized to take the witness's deposition, or~~
- (b) ~~Witness fees for a party if subpoenaed by an opposing party; and with a subpoena directing the witness's appearance.~~
- (c) ~~Witness fees for officers and employees of a corporation or other entity, if they are not parties in their individual capacities.~~

Taxable attendance and subsistence fees include fees paid for time reasonably spent in travel. No other witness expenses, including fees for expert witnesses, are allowable.

L.R. 54-3.7 Interpreter's and Translator's Fees. Reasonable fees, expenses, and costs paid to interpreters and translators, including the

~~salaries, fees, expenses, and costs incurred for interpretation or oral translation services provided at any court proceeding or deposition in the case are taxable, including the salaries, fees, expenses, and costs of special interpretation services as provided by under 28 U.S.C. §§ 1827 and 1828. Document translation costs are not taxable.~~

L.R. 54-3.8 Docket Fees. Docket fees are taxable as provided by 28 U.S.C. § 1923 (~~only if actually~~ incurred).

L.R. 54-3.9 Court-Appointed Experts, Masters, Commissioners, and Receivers. The reasonable fees and expenses of court-appointed experts, masters, commissioners, and receivers are taxable.

L.R. 54-3.10 Certification, Exemplification and Reproduction of Documents. Reasonable ~~D~~document preparation costs, including:

- (a) The cost of copies (~~including Mandatory Chambers Copies~~) of documents necessarily filed and served, including the cost of copying and delivering Mandatory Chambers Copies required by the Court;
- (b) The cost of copies of documents or other materials admitted into evidence when the original is not available or the copy is substituted for the original at the request of an opposing party;
- (c) Fees for an official certification of proof respecting the non-existence of a document or record;
- (d) Patent Office charges for the patent file wrappers and prior art patents necessary to the prosecution or defense of a proceeding involving a patent;
- (e) Notary fees incurred in notarizing a document when the cost of the document is taxable; ~~and~~
- (f) Fees for certification or exemplification of any document or record necessarily obtained for use in the case; and
- (g) The cost of physically replicating or reproducing material necessarily obtained for use in the case (including copies obtained to be produced in discovery) in any format in which such material is required to be

produced and with any required characteristics (such as metadata or manipulability) intact. To claim costs incurred in producing material in a required format, the agreement or order imposing the relevant requirements must be attached.

Any party seeking taxation of costs under this local rule must provide a consolidated itemization of copying costs, setting forth with specificity, particularity, and clarity the distinct tasks and services performed. Only costs associated with copying documents or reproducing other material for actual use in the case are allowed. Costs incurred for the convenience of counsel or as prefatory steps in the discovery process before copying documents for actual production are not recoverable.

L.R. 54-3.11 Premiums on Undertakings and Bonds. Premiums paid on undertakings, bonds, security stipulations, or substitutes therefor, where required by law or Court order, or where necessary to enable a party to secure a right granted in the proceeding, are taxable.

L.R. 54-3.12 Other Costs. Upon order of the Court, the reasonable cost of the physical preparation and duplication of the following items may be taxed ~~as costs~~:

- (a) Summaries, computations, polls, surveys, statistical comparisons, maps, charts, diagrams, and other visual aids reasonably necessary to assist the jury or the Court in understanding the issues at the trial;
- (b) Photographs, if admitted in evidence or attached to documents necessarily filed and served upon the opposing party; and
- (c) The cost of models.

The intellectual effort involved in the production of these materials may not be taxed.

L.R. 54-3.13 State Court Costs. Costs incurred in state court ~~prior to~~ before removal ~~which that~~ are recoverable under state statutes shall be recoverable by the prevailing party in this Court.

L.R. 54-4 Items Taxable as Costs on Appeal. An application to tax costs on appeal that are taxable in the District Court under F.R.App.P. 39(e) shall be filed in

the District Court no later than twenty-eight (28) days after the date the mandate or judgment is issued by the Court of Appeals.

L.R. 54-5 Items Taxable as Costs on a Bankruptcy Appeal to the District Court.

A Notice of Application to the Clerk to Tax Costs and Proposed Bill of Costs on a bankruptcy appeal decided in the District Court is to be filed within fourteen (14) days of the entered date of the order deciding that bankruptcy appeal. Taxable costs for bankruptcy appeals decided by the District Court shall be as provided for in Rule 8014 of the Federal Rules of Bankruptcy Procedure. To recover the costs of printing or otherwise reproducing briefs or excerpts of the record, a statement by counsel that the cost is no higher than is generally charged for such reproduction in the local area and that no more copies were reproduced than were actually necessary shall be required. No Clerk's fees not actually paid shall be recoverable.

~~L.R. 54-6 [Abrogated]~~

~~***L.R. 54-7 Clerk's Determination - Finality.*** After considering any objections to the Proposed Bill of Costs and any responses thereto, the Clerk shall tax costs to be included on the docket. The Clerk's determination shall be final unless modified by the Court upon review pursuant to L.R. 54-8.~~

~~***L.R. 54-8 Review of Clerk's Determination.*** Review of the Clerk's taxation of costs may be obtained by a motion to retax costs filed and served within seven (7) days of the Clerk's decision. That review will be limited to the record made before the Clerk, and encompass only those items specifically identified in the motion.~~

L.R. 54-69 Writ of Execution for Attorney's Fees and Costs. The Clerk shall, upon request, issue a writ of execution to recover attorney's fees awarded by the Court following a judgment and any separate award of costs by the Clerk:

- (a) Upon presentation of a certified copy of the final judgment and separate Bill of Costs and, if appropriate, a certified copy of the order awarding attorney's fees; or
- (b) Upon presentation of a mandate of the Court of Appeals to recover costs taxed by the appellate court.

L.R. 54-710 Filing Date for Requests for Attorneys' Fees. Any motion or application for attorneys' fees shall be served and filed within fourteen (14) days

after the entry of judgment or other final order, unless otherwise ordered by the Court. Such motions and their disposition shall be governed by L.R. 7-3, *et seq.*

L.R. 54-~~811~~ Filing Date for Motions to Award Costs Not Governed by F.R.Civ.P. 54(d). Any motion for an award of costs not governed by F.R.Civ.P. 54(d), such as a motion for a discretionary award of costs ~~pursuant to~~under 28 U.S.C. § 1919, shall be served and filed within fourteen (14) days after the entry of judgment or other final order, unless otherwise ordered by the Court. Such motions and their disposition shall be governed by L.R. 7-3, *et seq.*

CHAPTER II

RULES FOR ADMIRALTY AND MARITIME CLAIMS AND ASSET FORFEITURE ACTIONS

C.6 (RC-C.3) APPLICATION FOR ORDER AUTHORIZING ISSUANCE OF WARRANT FOR ARREST OF VESSEL OR OTHER PROPERTY

Any application for an order authorizing issuance of a warrant for the arrest of a vessel or other property under the Supplemental Rules for Admiralty and Maritime Claims must include, if known, the name, address, telephone number, and email address of both the owner of the vessel or other property at issue and the owner's counsel.

E.13 (83) INTERVENOR'S CLAIMS

(a) Presentation of Claim.

When a vessel or other property has been arrested, attached, or garnished, and is in the hands of the Marshal or substitute custodian, anyone having a claim against the vessel or property is required to present the claim by filing an intervening complaint ~~in paper format~~ and obtain a warrant of arrest or process of maritime attachment and garnishment, and not by filing an original complaint, unless otherwise ordered by a judicial officer. The intervening party shall file a Notice of Request for Review pursuant to Local Admiralty Rule E.4(e). Upon obtaining judicial approval for issuance of process, the intervening party shall forthwith deliver a conformed copy of the complaint in intervention and the intervenor's warrant of arrest or process of attachment or garnishment to the Marshal, who shall deliver the same to the vessel or custodian of the property. Intervenors shall thereafter be subject to the rights and obligations of parties, and the vessel or property shall stand arrested, attached, or garnished by the intervenor. An intervenor shall not be required to advance a security deposit to the Marshal.

E.14 (83) CUSTODY OF PROPERTY

(d) Claims by Suppliers for Payment of Charges.

A person who furnishes supplies or services to a vessel, cargo, or other property in custody of the Court who has not been paid and claims the right to payment as an expense of administration shall file an invoice with the Clerk in the

form of a verified claim ~~in paper format~~ at any time before the vessel, cargo, or other property is released or sold. The supplier must serve copies of the claim on the Marshal, substitute custodian if one has been appointed, and all parties of record. The Court may consider the claims, individually or schedule a single hearing for all claims.

E.15 (83-E.9) SALE OF PROPERTY

(f) Opposition to Sale.

A party filing an opposition to the sale, whether seeking the reception of a higher bid or a new public sale by the Marshal, shall give prompt notice to all other parties and to the purchaser. ~~Unless the party has previously appeared in the case, the opposition shall be filed in paper format.~~ Such party shall also, prior to filing an opposition, secure the Marshal's endorsement upon it acknowledging deposit with the Marshal of the necessary expense of keeping the property for at least seven (7) days. Pending the Court's determination of the opposition, such party shall also advance any further expense at such times and in such amounts as the Marshal shall request, or as the Court orders upon application of the Marshal or the opposing party. Such expense may later be subject to taxation as costs. In the event of failure to make such advance, the opposition shall fail without necessity for affirmative action thereon by the Court. If the opposition fails, the expense of keeping the property during its pendency shall be borne by the party filing the opposition.