

## **Statewide Uniform Guidelines for Taxation of Costs in Civil Actions**

**Purpose and Application.** These guidelines are advisory only. The taxation of costs in any particular proceeding is within the broad discretion of the trial court. The trial court should exercise that discretion in a manner that is consistent with the policy of reducing the overall costs of litigation and of keeping such costs as low as justice will permit. With this goal in mind, the trial court should consider and reward utilization of innovation technologies by a party which subsequently minimizes costs and reduce the award when use of innovation technologies that were not used would have resulted in lowering costs. In addition, these guidelines are not intended to (1) limit the amount of costs recoverable under a contract or statute, or (2) prejudice the rights of any litigant objecting to an assessment of costs on the basis that the assessment is contrary to applicable substantive law.

**Burden of Proof.** Under these guidelines, it is the burden of the moving party to show that all requested costs were reasonably necessary either to defend or prosecute the case at the time the action precipitating the cost was taken.

### **I. Litigation Costs That Should Be Taxed.**

#### **A. Depositions.**

1. The original and one copy of the deposition and court reporter's per diem for all depositions.
2. The original and/or one copy of the electronic deposition and the cost of the services of a technician for electronic depositions used at trial.
3. Telephone toll and electronic conferencing charges for the conduct of telephone and electronic depositions.

#### **B. Documents and Exhibits.**

1. The costs of copies of documents filed (in lieu of "actually cited") with the court, which are reasonably necessary to assist the court in reaching a conclusion.
2. The costs of copies obtained in discovery, even if the copies were not used at trial.

**C. Expert Witnesses.**

1. A reasonable fee for deposition and/or trial testimony, and the costs of preparation of any court ordered report.

**D. Witnesses.**

1. Costs of subpoena, witness fee, and service of witnesses for deposition and/or trial.

**E. Court Reporting Costs Other than for Depositions.**

1. Reasonable court reporter's per diem for the reporting of evidentiary hearings, trial and post-trial hearings.

**F. Reasonable Charges Incurred for Requiring Special Magistrates, Guardians Ad Litem, and Attorneys Ad Litem.**

II. Litigation Costs That May Be Taxed as Costs.

**A. Mediation Fees and Expenses.**

1. Costs and fees of mediator.

**B. Reasonable Travel Expenses.**

1. Reasonable travel expenses of expert when traveling in excess of 100 miles from the expert's principal place of business (not to include the expert's time).
2. Reasonable travel expenses of witnesses.

**C. Electronic Discovery Expenses.**

1. The cost of producing copies of relevant electronic media in response to a discovery request.
2. The cost of converting electronically stored information to a reasonably usable format in response to a discovery request that seeks production in such format.

III. Litigation Costs That Should Not Be Taxed as Costs.

**A. The Cost of Long Distance Telephone Calls with Witnesses, both Expert and Non-Expert (including conferences concerning scheduling of depositions or requesting witnesses to attend trial)**

**B. Any Expenses Relating to Consulting But Non-Testifying Experts**

**C. Cost Incurred in Connection with Any Matter Which Was Not Reasonably Calculated to Lead to the Discovery of Admissible Evidence**

**D. Travel Time.**

1. Travel time of attorney(s).

2. Travel time of expert(s).

**E. Travel Expenses of Attorney(s).**

**F. The Cost of Privilege Review of Documents, including Electronically Stored Information.**