

## RULE 39. COSTS

**(a) Against Whom Assessed.** The following rules apply in civil appeals unless the law provides or the court orders otherwise:

(1) if an appeal is dismissed, costs are taxed against the appellant, unless the parties agree otherwise;

(2) if a judgment is affirmed, costs are taxed against the appellant;

(3) if a judgment is reversed, costs are taxed against the respondent;

(4) if a judgment is affirmed in part, reversed in part, modified, or vacated, costs are taxed only as the court orders.

~~[(b) Reserved.]~~

~~[(e) Costs of Briefs, Appendices, Counsel's Transportation; Limitation.]~~ **(b) Limitations on Costs.**

**(1) Costs of Copies.** The cost of producing necessary copies of briefs or appendices ~~[shall be]~~ is taxable in the Supreme Court or Court of Appeals ~~[rates not higher than those generally charged for such work in the area where the district court is located]~~ a rate not to exceed 10 cents per page, or at actual cost, whichever is less.

**(2) Costs of Counsel's Transportation.** The actual costs of round-trip transportation within Nevada for one attorney, actually attending arguments before the Supreme Court or Court of Appeals, ~~[between the place where the district court is located and]~~ to the place where the appeal is argued ~~[shall be]~~ are taxable in the Supreme Court or Court of Appeals. For the purpose of this Rule, "actual costs" for private automobile travel ~~[shall be]~~ is deemed to be ~~[15 cents per mile, but where commercial air transportation is available at a cost less than private automobile travel, only the cost of the air transportation shall be taxable]~~ the rate

established by the Internal Revenue Service for business travel at the time such travel occurs.

**(3) Bill of Costs.** Only those categories of costs identified in Rule 39(b)(1) and (2) are taxable in the Supreme Court or Court of Appeals. A party who wants such costs taxed ~~[shall]~~ must—within 14 days after entry of judgment—file an itemized and verified bill of costs with the clerk, with proof of service.

**(4) Objections.** Objections to a bill of costs ~~[shall]~~ must be filed within 7 days after service of the bill of costs, unless the court extends the time.

**(5) Limit on Costs.** The maximum amount of costs taxable under ~~[this section]~~ Rule 39(b)(1) and (2) [shall be \$500] is \$750.

~~[(d)]~~ **(c) Clerk to Insert Costs in Remittitur.** The clerk ~~[shall]~~ will prepare and certify an itemized statement of costs taxed in the Supreme Court or Court of Appeals for insertion in the remittitur, but issuance of the remittitur must not be delayed for taxing costs. If the remittitur issues before costs are finally determined, the district court clerk must—upon the Supreme Court clerk’s request—add the statement of costs, or any amendment of it, to the remittitur.

~~[(e)]~~ **(d) Costs on Appeal Taxable in the District Courts.** The following costs on appeal are taxable in the district court for the benefit of the party entitled to costs under this Rule:

(1) the preparation and transmission of the record;

(2) the reporter’s transcript, if ~~[needed]~~ necessary to determine the appeal;

~~[(3) preparation of the appendix;]~~

~~[(4)]~~ **(3)** premiums paid for a supersedeas bond or other ~~[bond]~~ security to preserve rights pending appeal; and

~~[(5)]~~ (4) the fee for filing the notice of appeal.

### **REVIEWING NOTE**

Former subdivision (c) is now subdivision (b). Changes to what is now subdivision (b)(1) seek to create more certainty in the copying cost rates that are allowed. Changes to what is now subdivision (b)(2) seek to reflect that counsel may travel from a location that is not where the district court is located and to have recoverable private automobile travel costs track the Internal Revenue Service standard. Changes to what is now subdivision (b)(3) clarify the existing rule that only the costs identified in what are now subdivisions (b)(1) and (b)(2) can be taxed in the appellate courts; all other costs for an appeal must be sought in the district court. Because preparation of the appendix is generally not a hard cost but rather performed by an attorney and/or staff, that has been removed from the list of costs in what is now subdivision (d).