

LR 54.3 Time Limit For Motion For Award Of Attorney's Fees And For Costs Other Than Attorney's Fees

(a) Applications for fees under the Equal Access to Justice Act shall be filed within 30 days of final judgment as defined by 28 U.S.C. § 2412.

(b) In all other cases in which attorney's fees are sought, the party seeking an award of fees shall:

- (1) Within 30 days of entry of judgment in the case, file and serve an itemized motion for the award of fees. Within 14 days after being served with a motion for the award of fees, a party may file and serve a response. A reply brief may not be filed unless the Court otherwise permits; or,
- (2) Within 14 days after the entry of judgment in the case, serve on all counsel of record and deliver to the Clerk of Court a Notice of Intent to Claim an Award of Attorney's Fees. The Notice shall specify the statutory or other authority for the award of fees and shall identify the names of all counsel who rendered the legal services upon which the claim is based. The Notice may propose a schedule for the presentation of motions for attorney's fees. Thereafter, the Court, or the Clerk of Court acting at the Court's direction, shall issue an order setting a schedule for the submission and consideration of the motion for attorney's fees and all supporting documentation.
- (3) For good cause shown, the Court may excuse failure to comply with LR 54.3(b).

(c) In all cases in which costs are sought under Federal Rule of Civil Procedure 54(d)(1):

- (1) Within 30 days of entry of the judgment in the case, a party seeking costs shall file and serve a verified bill of costs using the approved form.
- (2) Within 14 days after being served with a copy of the bill of costs, a party may file and serve objections to the bill of costs. If objections are filed, a party may file and serve a response to the objections within 7 days after service of the objections.
- (3) Unless the Court directs otherwise, the Clerk will tax costs at the conclusion of the procedure outlined in subsection (c)(2), above.
- (4) Within 14 days after the entry of the Clerk's decision, any party may file and serve a motion and supporting documents for review of the Clerk's decision. Within 14 days after being served with the motion for review, a party may file and serve a response. A reply brief may not be filed unless the Court otherwise permits.
- (5) The filing of a bill of costs does not affect the appealability of the judgment previously entered.
- (6) The Clerk of Court will promptly enter any costs taxed in the mandate of the Court of Appeals under Fed. R. App. P. 39(d). Appeal costs taxable in the district court under Fed. R. App. P. 39(e) will be taxed in accordance with this rule, provided that a bill of costs or amended bill of costs is filed within 14 days of the issuance of the mandate of the Court of Appeals.

(d) All motion papers filed under this rule shall comply with LR 7.1(c).

[Adopted effective February 1, 1991; amended November 1, 1996; amended January 3, 2000; amended May 17, 2004; amended December 1, 2009]

2009 Advisory Committee's Note to LR 54.3

This local rule has been amended to be consistent with the amendments to the federal rules on time-computation and changes the past practice of the Clerk of Court not to tax costs until all applicable appeal periods have expired. The amended rule now requires the request to be filed promptly after the entry of judgment.

The form referenced in LR 54.3(c)(1) is available in all Clerk's Office locations and electronically on the Court's website at

www.mnd.uscourts.gov. When filing a bill of costs or amended bill of costs under subsection (c)(6), refer to Fed. R. App. P. 41 to determine when the Court of Appeals mandate was issued.

Parties are encouraged to refer to the District Court's Bill of Costs Guide, which is available in all Clerk's Office locations and electronically on the Court's website at www.mnd.uscourts.gov.

1991 Advisory Committee's Note to LR 54.3

In general, applications for attorney's fees should be submitted promptly after a determination of the case on the merits. Prompt submission aids the trial Judge, whose memory of the work of the lawyers is fresh, and facilitates appellate consideration of the whole controversy. As a general procedure, then, the rule requires attorney's fees motions to be submitted within 30 days of the entry of judgment.

The Equal Access to Justice Act, 28 U.S.C. § 2412, requires (and permits) applications for fees to be made "within thirty days of final judgment in the action". "Final judgment" is defined as "a judgment that is final and not appealable, and includes an order of settlement". It is clear that the EAJA contemplates that fee applications will be made either after appeal, or after the time for appeal has run. The rule adopts the statutory time and definitions for EAJA petitions.

Some circumstances (in addition to those relating to the EAJA) may call for a different schedule for the submission of fee motions. For example, if post-judgment motions may significantly affect the results of the case (and thus the extent of the award), it may be more fair or more efficient to postpone submission and consideration of the fee motions until after those motions are decided. Additionally, in rare instances, delaying the fee consideration until after an appeal is determined may promote justice and efficiency. Subparagraph (b)(2) provides a procedure by which a party seeking fees can ask the Court to establish an alternate schedule. The Notice of Intention to Claim an Award of Attorney's Fees tolls the time for submitting a fee motion, pending the establishment of the schedule by the district court. The drafters contemplate that the Court will, in its schedule, provide adequate time for the preparation and submission of the detailed fee petition.

Finally, Section (b)(3) provides that the Court may excuse failure to abide by the provisions of the rule, for good cause shown. This section does not apply to EAJA petitions, which are governed by the statutory time limit.

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