

COLLECTION AND DISPOSITION OF FEES AND EXPENSES
FOR SERVICES

Pub. L. 101-162, title II, Nov. 21, 1989, 103 Stat. 997, provided in part: "That notwithstanding the provisions of title 31 U.S.C. 3302, for fiscal year 1990 and hereafter the Director of the United States Marshals Service may collect fees and expenses for the services authorized by 28 U.S.C. 1921 as amended by Public Law 100-690, and credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services".

§ 1922. Witness fees before United States magistrate judges

The fees of more than four witnesses shall not be taxed against the United States, in the examination of any criminal case before a United States magistrate judge, unless their materiality and importance are first approved and certified to by the United States attorney for the district in which the examination is had.

(June 25, 1948, ch. 646, 62 Stat. 956; Pub. L. 90-578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 101-650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 828 (R.S. § 981; May 28, 1896, ch. 252, § 19, 29 Stat. 184).

Last clause of section 828 of title 28, U.S.C., 1940 ed., providing "and such taxation shall be subject to revision, as in other cases" was omitted as unnecessary in view of the inherent power of the court to revise costs taxed.

Changes were made in phraseology.

CHANGE OF NAME

"United States magistrate judges" substituted for "United States magistrates" in section catchline and "United States magistrate judge" substituted for "United States magistrate" in text pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of this title. Previously, "United States magistrates" and "United States magistrate" substituted for "United States commissioners" and "United States commissioner", respectively, pursuant to Pub. L. 90-578. See chapter 43 (§ 631 et seq.) of this title.

§ 1923. Docket fees and costs of briefs

(a) Attorney's and proctor's docket fees in courts of the United States may be taxed as costs as follows:

\$20 on trial or final hearing (including a default judgment whether entered by the court or by the clerk) in civil, criminal, or admiralty cases, except that in cases of admiralty and maritime jurisdiction where the libellant recovers less than \$50 the proctor's docket fee shall be \$10;

\$20 in admiralty appeals involving not over \$1,000;

\$50 in admiralty appeals involving not over \$5,000;

\$100 in admiralty appeals involving more than \$5,000;

\$5 on discontinuance of a civil action;

\$5 on motion for judgment and other proceedings on recognizances;

\$2.50 for each deposition admitted in evidence.

(b) The docket fees of United States attorneys and United States trustees shall be paid to the clerk of court and by him paid into the Treasury.

(c) In admiralty appeals the court may allow as costs for printing the briefs of the successful party not more than:

\$25 where the amount involved is not over \$1,000;

\$50 where the amount involved is not over \$5,000;

\$75 where the amount involved is over \$5,000.

(June 25, 1948, ch. 646, 62 Stat. 956; June 18, 1954, ch. 304, 68 Stat. 253; Pub. L. 95-598, title II, § 245, Nov. 6, 1978, 92 Stat. 2671.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 571, 572, and 578 (R.S. §§ 823, 824; May 28, 1896, ch. 252, §§ 6, 24, 29 Stat. 179, 186; Feb. 26, 1919, ch. 49, § 1, 40 Stat. 1182; July 19, 1919, ch. 24, § 1, 41 Stat. 209; Feb. 11, 1921, ch. 46, 41 Stat. 1099; June 6, 1930, ch. 409, 46 Stat. 522; Aug. 3, 1935, ch. 431, § 1, 49 Stat. 513).

Section consolidates sections 571, 572, and 578 of title 28, U.S.C., 1940 ed.

The phrase "\$20 on trial or final hearing in civil, criminal, or admiralty cases" was substituted for the following provisions of section 572 of title 28, U.S.C., 1940 ed., "On trial before a jury, in civil or criminal causes or before referees, or on a final hearing in equity or admiralty, a docket fee of \$20", and the limitation of \$10 in "cases at law when judgment is rendered without a jury" was omitted. This simplified restatement provides for a single docket fee in each case which reaches final hearing or trial. Since the docket fee is arbitrary, any limitation or distinction between law cases tried with or without a jury is unrealistic.

Word "solicitor" was omitted as obsolete and inapplicable in civil, criminal, or admiralty practice.

Words "motion for judgment" were substituted for "scire facias" to conform to Rules 2 and 81 of the Federal Rules of Civil Procedure.

Changes were made in phraseology.

CODIFICATION

Pub. L. 95-598, title IV, § 408(c), Nov. 6, 1978, 92 Stat. 2687, as amended by Pub. L. 98-166, title II, § 200, Nov. 28, 1983, 97 Stat. 1081; Pub. L. 98-353, title III, § 323, July 10, 1984, 98 Stat. 358; Pub. L. 99-429, Sept. 30, 1986, 100 Stat. 985; Pub. L. 99-500, § 101(b) [title II, § 200], Oct. 18, 1986, 100 Stat. 1783-39, 1783-45, and Pub. L. 99-591, § 101(b) [title II, § 200], Oct. 30, 1986, 100 Stat. 3341-39, 3341-45; Pub. L. 99-554, title III, § 307(a), Oct. 27, 1986, 100 Stat. 3125, which provided for the deletion of any references to United States Trustees in this title at a prospective date, was repealed by Pub. L. 99-554, title III, § 307(b), Oct. 27, 1986, 100 Stat. 3125.

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-598 inserted "and United States trustees" after "United States attorneys".

1954—Subsec. (a). Act June 18, 1954, inserted in first item "including a default judgment whether entered by the court or by the clerk" after "final hearing".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(c) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

§ 1924. Verification of bill of costs

Before any bill of costs is taxed, the party claiming any item of cost or disbursement shall attach thereto an affidavit, made by himself or by his duly authorized attorney or agent having knowledge of the facts, that such item is correct and has been necessarily incurred in the case and that the services for which fees have been

charged were actually and necessarily performed.

(June 25, 1948, ch. 646, 62 Stat. 957.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 831 (R.S. § 984; June 10, 1921, ch. 18, § 304, 42 Stat. 24).

Section as revised conforms to existing Federal Practice. See note to subdivision (d) of Rule 54 of the Federal Rules of Civil Procedure. For discussion as to verification of bill of costs under existing practice, see—8 Hughes, Federal Practice, Jurisdiction and Procedure—Civil and Criminal, § 6441.

Words “or allowed by the General Accounting Office” were omitted as unnecessary. That office will not allow items in a tax bill for costs against the United States unless such bill has been taxed by the court, and the court, under this section, cannot tax as costs items in an unverified bill.

Changes were made in phraseology.

§ 1925. Admiralty and maritime cases

Except as otherwise provided by Act of Congress, the allowance and taxation of costs in admiralty and maritime cases shall be prescribed by rules promulgated by the Supreme Court.

(June 25, 1948, ch. 646, 62 Stat. 957.)

HISTORICAL AND REVISION NOTES

This section was drafted to make possible the promulgation of comprehensive and uniform rules governing costs in admiralty. Various enactments of Congress, all over 100 years old, relate to particular features of such matter, but do not set forth any comprehensive and uniform procedure. See, for example, sections 818, 826, and 827 of title 28, U.S.C., 1940 ed.

§ 1926. Court of Federal Claims

(a) The Judicial Conference of the United States shall prescribe from time to time the fees and costs to be charged and collected in the United States Court of Federal Claims.

(b) The court and its officers shall collect only such fees and costs as the Judicial Conference prescribes. The court may require advance payment of fees by rule.

(June 25, 1948, ch. 646, 62 Stat. 957; Pub. L. 97-164, title I, § 139(p)(1), Apr. 2, 1982, 96 Stat. 44; Pub. L. 102-572, title IX, § 902(b), Oct. 29, 1992, 106 Stat. 4516.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 304 (Mar. 3, 1911, ch. 231, § 191, 36 Stat. 1144).

For distribution of other provisions of section 304 of title 28, U.S.C., 1940 ed., see Distribution Table.

Changes were made in phraseology.

AMENDMENTS

1992—Pub. L. 102-572 substituted “Court of Federal Claims” for “Claims Court” as section catchline and “United States Court of Federal Claims” for “United States Claims Court” in subsec. (a).

1982—Pub. L. 97-164 substituted “Claims Court” for “Court of Customs and Patent Appeals” as section catchline and, in text substituted provisions directing the Judicial Conference of the United States to prescribe from time to time the fees and costs to be charged and collected in the United States Claims Court and directing the court and its officers to collect only such fees and costs as the Judicial Conference prescribes, with the court authorized to require advance payment of fees by rule for provisions which had directed that fees and costs in the Court of Customs and

Patent Appeals be fixed by a table of fees adopted by such court and approved by the Supreme Court, that the fees and costs so fixed not exceed the fees and costs charged in the Supreme Court, and that the fees be accounted for and paid over to the Treasury.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

COURT FEES FOR ELECTRONIC ACCESS TO INFORMATION

Judicial Conference to prescribe reasonable fees for collection by courts under this section for access to information available through automatic data processing equipment and fees to be deposited in Judiciary Automation Fund, see section 303 of Pub. L. 102-140, set out as a note under section 1913 of this title.

§ 1927. Counsel’s liability for excessive costs

Any attorney or other person admitted to conduct cases in any court of the United States or any Territory thereof who so multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorneys’ fees reasonably incurred because of such conduct.

(June 25, 1948, ch. 646, 62 Stat. 957; Pub. L. 96-349, § 3, Sept. 12, 1980, 94 Stat. 1156.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 829 (R.S. § 982).

Word “personally” was inserted upon authority of *Motion Picture Patents Co. v. Steiner et al.*, 1912, 201 F. 63, 119 C.C.A. 401. Reference to “proctor” was omitted as covered by the revised section.

See definition of “court of the United States” in section 451 of this title.

Changes were made in phraseology.

AMENDMENTS

1980—Pub. L. 96-349 substituted judicial authorization to require attorneys to satisfy excess costs, expenses, and attorneys’ fees reasonably incurred because of multiplication of proceedings for such prior authority to impose liability for increased costs based on multiplication of proceedings.

§ 1928. Patent infringement action; disclaimer not filed

Whenever a judgment is rendered for the plaintiff in any patent infringement action involving a part of a patent and it appears that the patentee, in his specifications, claimed to be, but was not, the original and first inventor or discoverer of any material or substantial part of the thing patented, no costs shall be included in such judgment, unless the proper disclaimer has been filed in the United States Patent and Trademark Office prior to the commencement of the action.

(June 25, 1948, ch. 646, 62 Stat. 957; Pub. L. 106-113, div. B, § 1000(a)(9) [title IV, § 4732(b)(17)], Nov. 29, 1999, 113 Stat. 1536, 1501A-585.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 821 (R.S. § 973).