



United States District Court

# DISTRICT OF SOUTH DAKOTA

## LR 54.1 TAXATION OF COSTS

- A. Procedure.** Before costs may be taxed, the prevailing party entitled to recover costs must file and serve a verified bill of costs within 28 calendar days after entry of judgment or an order of dismissal. The party liable for costs may within 14 calendar days thereafter file exceptions to the costs or any specific item therein.

The clerk of court may then tax costs and, upon allowance, the costs will be included in the judgment or decree. Upon motion of either party within 7 calendar days after the clerk taxes costs, the action of the clerk may be reviewed by the court.

- B. Default Judgment.** In a default judgment case, the clerk of court may tax costs as a matter of course without notice.
- C. Attorney's Fees.** A party moving for attorney's fees must file and serve a motion and an affidavit setting out the time reasonably spent in the litigation and any factual matters pertinent to the motion for attorney's fees. The motion must be filed no later than 28 calendar days after the entry of judgment absent a showing of good cause. The respondent may file and serve a response and counter affidavit controverting or asserting any factual matters bearing on the award of attorney's fees.

Objections to an allowance of attorney's fees must be filed within 21 calendar days after service on the party against whom the award of attorney's fees is sought. The movant may file a reply brief within 14 calendar days after service of the responsive brief. The court will then determine the appropriate attorney's fees, if any, without further hearing, unless in the court's opinion a hearing is needed to resolve serious factual disputes between the parties.

On its own motion, the court may grant an allowance of reasonable attorney's fees to a prevailing party in appropriate cases.

The failure to move for an award of attorney's fees within the prescribed time may be considered by the court to be a waiver of any claim for attorney's fees.