

IN THE SUPREME COURT OF THE STATE OF KANSAS

RULES RELATING TO DISTRICT COURTS

RULE 187

TAXATION OF COSTS BY THE CLERK

Supreme Court Rule 187 is hereby amended, effective the 29th day of November, 2006.

(a) Procedure for Taxation. In any case pursuant to Chapter 60 or 61 where the journal entry does not state an amount for costs and a party wishes to have the clerk tax costs pursuant to K.S.A. 60-2002, the party entitled to recover costs may ~~shall~~ file and serve a bill of costs within 30 days (1) after the expiration of time allowed for appeal of a final judgment or decree, or (2) after receipt by the clerk of an order terminating the action on appeal. The bill of costs shall be deemed sufficient if in substantial compliance with the form set forth by the judicial council. A party may object to the bill of costs by filing and serving an objection within ten (10) days of service of the bill. If an objection is filed, both the bill of costs and the objection shall be referred to the judge for disposition after such hearing, if any, as the judge deems appropriate. If no timely objection to the bill of costs is filed, the clerk may proceed to tax costs according to the bill. The clerk's action may be reviewed by the court if a motion to retax the costs is filed within ten (10) days after taxation by the clerk. ~~The failure of a prevailing party to timely file a bill of costs shall constitute a waiver of any claim for costs.~~

(b) Items Allowable as Costs. The items allowable as costs shall be those specified in K.S.A. 60-2003, unless otherwise ordered by the court.

(c) To Whom Payable. Unless otherwise ordered by the court, all costs taxed are payable directly to the party entitled thereto and not to the clerk.

(d) Notwithstanding any other provision of this rule or Rule 186, costs shall be assessed and collected by the judgment creditor in those cases where payment of an advance cost deposit is excused under K.S.A. 28-110 and K.S.A. 60-2005. Upon collection of costs, the judgment creditor shall pay the same to the clerk as set out in subsection (f) of Rule 186.

BY ORDER OF THE COURT, this 29th day of November, 2006.

FOR THE COURT

Kay McFarland, Chief Justice

Comment

By statute, K.S.A. 60-2002(c) and K.S.A. 61-4002 (incorporating K.S.A. 60-2002 by reference), clerks have a mandatory duty to tax costs, subject to review by the judge upon timely motion by a party. However, the statute provides no procedure or time frames for how this is to be done. The proposed rule is modeled upon U.S. District of Kansas Rule 54.1. The items of costs specified in the proposed bill are those set forth in K.S.A. 60-2003.

The proposed amendments are intended to clarify that the bill need not be filed in every case, but is intended to provide the procedure by which clerks can tax costs pursuant to K.S.A. 60-2002 upon request.