

Rule 113. Witness Fees and Allowances

(a) AMOUNTS. Except as otherwise provided by statute or these rules, a witness attending court or a deposition pursuant to any rule or court order must be paid the fees and allowances provided in this rule.

(1) *Fees.*

(A) *In General.* A witness must receive \$40 per day for each day's attendance and for the time necessarily occupied in going to and returning from the place of attendance.

(B) *Expert Witness.* An expert witness must receive the amount to which the expert witness is entitled by law or court order.

(C) *Detained Witness.* A witness detained under D.C. Code § 23-1326 (2012 Repl.) is entitled to \$40 per day for each day of detention when not in attendance at court.

(D) *Employee of the United States or the District of Columbia.* No witness fee will be paid to an employee of the United States, the District of Columbia, or an agency of either, who has been called as a witness on behalf of the United States or the District of Columbia.

(2) *Travel Allowance.*

(A) *By Common Carrier.* A witness, who resides outside of the District of Columbia and travels by common carrier, must be paid for the actual expenses of travel on the basis of the means of transportation reasonably utilized and the distance necessarily traveled to and from the witness's residence by the shortest practical route in going to and returning from the place of attendance. The witness must utilize a common carrier at the most economical rate reasonably available and must provide a receipt or other evidence of actual cost.

(B) *Per Mile.* A witness, who resides outside of the District of Columbia and travels by private vehicle, must receive a per mile travel allowance for going from and returning to the witness's residence. The travel allowance must be calculated in accordance with 28 U.S.C. § 1821.

(C) *Tolls and Other Expenses.* A witness, who resides outside of the District of Columbia, must be reimbursed for the following expenses:

- (i) toll charges for toll roads, bridges, tunnels, and ferries;
- (ii) taxicab fares between places of lodging and carrier terminals; and
- (iii) upon presentation of a valid parking receipt, parking fees.

(D) *Detained Witness.* A witness detained under D.C. Code § 23-1326 (2012 Repl.) is not entitled to a travel allowance.

(E) *Employee of the United States.* A witness, who is an employee of the United States or any United States agency and is called to testify in the witness's official capacity or produce an official record, must be paid a travel allowance fixed by applicable statutes and regulations.

(3) *Subsistence.*

(A) *In General.* A witness, who is attending court or a deposition at a place so far removed from the witness's residence that the witness cannot return to the residence each day, is entitled to an additional allowance fixed by statute for expenses of subsistence, including the time necessarily occupied in going to and returning from the place of attendance.

(B) *Detained Witness.* A witness detained under D.C. Code § 23-1326 (2012 Repl.) is entitled to the witness's subsistence.

(C) *Employee of the United States.* An officer or employee of the United States or any United States agency summoned as a witness on behalf of the United States must receive a per diem allowance, in lieu of subsistence, at a rate prescribed by law.

(b) PAYMENT FROM PUBLIC FUNDS.

(1) *Certification Required.* No witness entitled to payment under Rule 113(a) will be paid from public funds except on certification of the witness that:

(A) the witness was compelled by subpoena to attend as a witness on behalf of a defendant unable to pay or was present pursuant to the direction of the court or prosecutor; and

(B) the witness did attend.

(2) *Endorsement.* The certification must be endorsed by the court or the counsel of record issuing the subpoena or direction and must be submitted to the clerk for certification.

(c) VOLUNTARY APPEARANCE. No person who appears in court or at a deposition will be paid a fee or allowance unless the person is subpoenaed or present pursuant to direction of the court or prosecutor.

(d) ONE FEE RULE. No person under subpoena to attend in multiple pending criminal cases will be permitted to receive more than one fee or allowance for attendance on any one day.

(e) CONSTRUCTION. This rule should not be construed to conflict with or otherwise supersede any federal statute or regulation or any District of Columbia statute.

COMMENT TO 2020 AMENDMENTS

This rule incorporates, without expanding, the requirements of D.C. Code § 15-714 (2012 Repl.), which provides that Superior Court witnesses be paid the same fees and travel allowances as those paid to witnesses appearing before the United States District Court for the District of Columbia (governed by 28 U.S.C. 1821).