

Rule 15. Fees and Costs

(a) FEES. Fees must be in accordance with the schedule set out in Civil Rule 202.

(b) COSTS. On entry of judgment, the prevailing party must be awarded, as a matter of course, all taxable costs in the action including the filing fee, notary fee, postage, and a maximum of \$ 10.00 per defendant to cover the costs incurred for service by a special process server. Notwithstanding Civil Rule 54(d), any court filing fee and U.S. Marshals Service administrative fee for any writ of restitution, including alias writs, must be awarded as a cost without further action by the court. Any other fee associated with any writ of restitution must be awarded as a cost if the United States Marshals Service appears on the premises to execute the writ, regardless of whether the writ is executed. The clerk must tax costs on the filing of the writ of restitution pursuant to Rule 16(a) and payment of the required fees. Other costs may, in the court's discretion, be awarded to the prevailing party or any other party, as appropriate, and costs may be awarded so as to discourage the filing of frivolous, vexatious, or premature actions or defenses.

COMMENT TO 2014 AMENDMENTS

The fee for a writ of restitution includes a filing fee charged by the court, and an administrative fee and an execution fee charged by the U.S. Marshals Service. The court's filing fee and U.S. Marshals Service's administrative fee are awarded as costs upon payment by the plaintiff to the clerk. The execution fee must be paid by the plaintiff to the court upon filing of a writ of restitution, but is awarded as a cost only if charged by the U.S. Marshals Service.

In many instances, the plaintiff does not seek to schedule an eviction after a judgment for possession is obtained because the tenant redeems the tenancy, or vacates the premises, or for other reasons. If the U.S. Marshals Service does not appear on the premises to conduct an eviction, then the U.S. Marshals Service generally does not charge the execution fee and the court returns the fee to the plaintiff. The fee is returned approximately 90 days after the writ of restitution expires or is quashed, including any alias or reissued writ, or earlier if the plaintiff files a praecipe stating that the plaintiff will not be seeking re-issuance of the writ. In some instances, the U.S. Marshals Service may appear on the premises to supervise an eviction that does not take place, for example, because the writ of restitution is quashed or stayed before the eviction is concluded. In those circumstances, as well as in circumstances where the writ is executed, the U.S. Marshals Service does charge the execution fee, and that fee therefore is taxable as a cost.

In the past, the court has required the defendant to include the execution fee in the amount required to redeem the tenancy. Based on the amended rule, the execution fee will be required as part of the amount the tenant must pay to redeem the tenancy only if the redemption is taking place when the U.S. Marshals Service has appeared on the premises to execute the writ.