

CHAPTER 307.

COSTS AND FEES.

| | |
|------------------------------------------------------------|------------------------------------------------------|
| 307.01 Fees of justices. | 307.05 Fees for witnesses, copies, etc. |
| 307.02 Taxable costs in justice court and special courts. | 307.06 Disbursements to be proved. |
| 307.025 Costs in trespass by hunting or fishing. | 307.07 Costs in garnishment. |
| 307.03 Taxation of costs. | 307.08 Security for costs. |
| 307.04 Fees, to be proved; none for serving process, when. | 307.09 Surety to sign memorandum; execution thereon. |
| | 307.10 Surety company bond authorized. |

307.01 Fees of justices. Justices are entitled to the following fees and may tax the same as costs in all actions when applicable.

- Acknowledgment of deed and certifying for each grantor, 25 cents.
- Adjournment, 25 cents.
- Appeal, approving undertaking, making return, including travel, \$1.50.
- Bond taken and approved, 25 cents.
- Certificate of conviction, 50 cents.
- Commitment to jail, 50 cents.
- Copy of proceedings or any paper, 10 cents per folio.
- Deposition, taking, 12 cents per folio.
- Discharging prisoner on motion, 12 cents.
- Docketing, 50 cents.
- Drawing affidavit in attachment, replevin or garnishee, 50 cents.
- Drawing paper for which no other allowance is made, 12 cents per folio.
- Entering action without process, 12 cents.
- Entering return to process, 12 cents.
- Entering verdict, 50 cents.
- Execution, 25 cents.
- Filing paper, 5 cents.
- Judgment, entering, 50 cents.
- Judgment, entering satisfaction, 12 cents.
- Marrying and making return, \$1.50 and such other sum as may be donated.
- Notice to take depositions, 25 cents.
- Oath to witness, administering, 6 cents.
- Oaths, all other, administering, certifying, 12 cents.
- Opening judgment for rehearing, 25 cents.
- Order to bring up prisoner, 25 cents.
- Order to discharge prisoner from jail, 25 cents.
- Recognizance of bail, taking, 50 cents.
- Returning papers after preliminary examination, \$1.50.
- Security taken and approved, 25 cents.
- Subpoena, 50 cents.
- Summons, 50 cents.
- Taking deposition, examination, testimony or for any writing done in an action, 12 cents per folio whether transcribed by the justice at request of party or done by some other person.
- Taxing costs, 25 cents.
- Transcript of judgment, 25 cents.
- Travel in going and returning to perform any service when not otherwise provided for and such travel is necessary, 5 cents per mile. No compensation is allowed for travel to file certificate of conviction, but such certificate may be mailed to the clerk of the circuit court and the registry fee and postage shall be recoverable.
- Undertaking taken and approved, 25 cents.
- Unlawful detainer, inquisition, \$1.00.
- Venire for jury, 50 cents.
- Warrant, 50 cents.
- Writ not herein enumerated, 25 cents.

Justice is entitled to 12 cents per folio for transcript of testimony whether transcribed by him or some other person. He is not entitled to make a flat charge to cover the time spent in listening to testimony. 39 Atty. Gen. 585.

307.02 Taxable costs in justice court and special courts. The justice shall also tax the following as costs in favor of the party recovering judgment:

(1) (a) Witness fees for travel and attendance, not exceeding \$15, unless the justice, by an order entered in his docket, directs that a larger sum (not exceeding \$25) be taxed, in which case he shall state in his order the reasons for making it, and fees of jurors at the rate of not less than \$4 nor more than \$8 per day, as fixed by the county board, and 10 cents for each mile necessarily traveled to attend the trial, both coming and going, for each juror in attendance, less the amount advanced by the opposite party when the jury was demanded by him. Jurors' fees, when collected, shall be paid by the justice to the jurors.

(b) Notwithstanding any contrary provision in any local law, creating a court or conferring additional jurisdiction, jurors' fees and mileage in such courts having justice court jurisdiction shall be as provided in section 307.02 (1) (a) and, where the jurisdiction is greater than that of a justice of the peace, jurors' fees and mileage in such created courts or as to additional jurisdiction, other than that of justices of the peace, given to county courts shall be as provided in section 255.31 and the mileage of jury commissioners shall be 10 cents per mile as to all such courts.

(2) Fees for serving subpoenas and travel in serving them. But no witness fees or fees for serving subpoenas shall be taxed for travel or attendance on the return day except in actions where either party is entitled to proceed to trial on such day, unless an adjournment is had for cause or the trial is had on the return day.

(3) All other lawful fees and charges of any officer for services rendered in the action pursuant to law.

(4) An attorney's fee as follows, except when the amount thereof is otherwise specially provided for: On a judgment for \$50 or less, 10 per cent of the judgment; on a judgment over \$50 and less than \$100, \$5; on a judgment for \$100 or over, \$10. In an action of replevin the value of the property recovered shall govern the attorney's fee. When judgment is for the defendant the amount claimed in the complaint shall govern the attorney's fee. No attorney's fee shall be taxed in behalf of a party unless he appeared by attorney. But no attorney's fee shall be taxed for the plaintiff unless the defendant put in an answer or demurrer.

(5) In actions for work and labor an attorney's fee of not less than \$5 nor more than \$20, in the discretion of the justice, when the plaintiff appears by an attorney, whether or not the defendant appeared.

307.025 Costs in trespass by hunting or fishing. Taxable costs in an action for trespass by hunting or fishing on wild and uninclosed lands shall not exceed the damages awarded for the actual injury caused by the trespass.

307.03 Taxation of costs. At the time of entering judgment the justice may without notice tax the costs.

307.04 Fees, to be proved; none for serving process, when. No fees for travel of a witness or interpreter shall be allowed unless proved by the oath of some person having knowledge of the fact, nor for travel in serving a subpoena unless charged by an officer or proved by the oath of the person who served it; and no fees shall be allowed to a party for serving or travel in serving a subpoena in his own action.

307.05 Fees for witnesses, copies, etc. The attendance of not more than 5 witnesses to each particular fact shall be taxed; and if any witness attends upon 2 or more actions in the same day before the same justice his fees shall be equally apportioned among the parties who summoned him. No fees for copies of documents or papers or for depositions shall be allowed unless such copies or depositions were used upon the trial.

307.06 Disbursements to be proved. No disbursements shall be allowed unless the items are specified and proved to the justice and were in his opinion necessary and reasonable; and the justice may hear evidence offered to prove or disprove any charge.

307.07 Costs in garnishment. A garnishee is entitled to the same fees for travel and attendance as a witness, and he is not bound to appear or answer unless his fees for travel and one day's attendance are first paid; and such fees shall be taxed as costs in the action as witness fees are taxed. When a corporation is garnished the fee for the attendance of some officer to answer shall be paid to the person upon whom the garnishee summons is served.

307.08 Security for costs. Except as otherwise provided the justice shall require the plaintiff, if a nonresident of the county, to give security for costs in an amount up to \$100 and may require like security of all other plaintiffs. Unless security for costs is asked for or ordered on or before the return day, the right to security is waived. If the plaintiff refuses or neglects to give security, when required, the action shall be dismissed except if

the plaintiff files an affidavit that he has a valid claim against the defendant for work or labor and is unable to give security for costs, then it need not be given.

307.09 Surety to sign memorandum; execution thereon. The person becoming security shall sign the following memorandum on the docket: I, A. B., agree to become security for the costs in this action in a sum not to exceed \$100 If judgment is rendered against the plaintiff, execution for costs may issue against the plaintiff and the surety; or the defendant may maintain an action upon the memorandum against the security for the recovery of the costs.

307.10 Surety company bond authorized. Any bond, undertaking or recognizance permitted or required by law or by order of the justice may be executed by any surety company authorized to do business in this state, using the usual forms for that purpose; and when security is required to be entered in the docket as provided by section 305.11 or 307.09, the company may furnish such security by filing an undertaking in substantially the following form:

Whereas an action has been commenced (or is about to be commenced) in justice court in the county of by, plaintiff against, defendant; therefore, the company, a surety company duly authorized to do business in Wisconsin, undertakes to become surety for costs in such action (or, agrees to pay all costs and damages which shall be adjudged against in the action, as the case may require).

Dated, 19. . . . Company By

The undertaking shall be accompanied with the certificate of the commissioner of insurance, mentioned in sections 204.02 to 204.04. The cost of the undertaking, not to exceed \$5, is a taxable disbursement in the action.