



ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

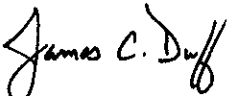
JAMES C. DUFF
Director

WASHINGTON, D.C. 20544

April 11, 2018

MEMORANDUM

To: Chief Judges, United States Courts
Circuit Executives
Panel Executive, Judicial Panel on Multidistrict Litigation
Federal Public/Community Defenders
District Court Executives
Clerks, United States Courts
Clerk, Judicial Panel on Multidistrict Litigation

From: James C. Duff 

RE: MISCELLANEOUS FEES (**INFORMATION**)

At its March 2018 session, the Judicial Conference approved a new fee for providing copies of records in electronic form when those records are not available on the Public Access to Court Electronic Records (PACER) system or stored in the Case Management/Electronic Case Files (CM/ECF) system. This fee will be implemented through amendments to the appellate, district, and bankruptcy court miscellaneous fee schedules, as well as to the U.S. Court of Federal Claims and the Judicial Panel on Multidistrict Litigation miscellaneous fee schedule. These amendments, as well as conforming changes to the existing fees for reproducing a record in paper form, will become effective September 1, 2018.

Because CM/ECF allows attorneys to file case documents online, the Judiciary already provides public online access to the vast majority of court records through the PACER system. There is, however, a small subset of records that is maintained by clerk's offices, but those records are not stored in CM/ECF or available through PACER. Due to the file format or size of the electronic file, these records are difficult to make available in the PACER and CM/ECF systems, and public requests for copies must be handled through the clerk's office. Examples include video recordings of depositions submitted in support of a motion, electronic copies of voluminous state court records in habeas proceedings under 28 U.S.C. § 2254, or lengthy administrative records pertaining to administrative appeals.

In reviewing how courts manage these requests, courts reported a wide variety in procedures as well as whether they charge a fee for the service. Because of the disparate treatment of these requests, as well as the lack of uniformity in assessing a fee for this service, the District Clerk's Advisory Group suggested that a specific fee for this service be assessed. After considering the issue and a variety of fee proposals, the Committee on Court Administration and Case Management (CACM) recommended, and the Judicial Conference endorsed, a flat fee of \$31 for a copy of a record provided in electronic format. This fee mirrors the existing fees to conduct a search of court records or to reproduce a recording of a court proceeding.

The new fee will be incorporated into the existing fee items pertaining to reproducing a record in paper form for the Court of Appeals Miscellaneous Fee Schedule (Item 4), the District Court Miscellaneous Fee Schedule (Item 4), the Bankruptcy Court Miscellaneous Fee Schedule (Item 1), the U.S. Court of Federal Claims Fee Schedule (Item 2), and the Judicial Panel on Multidistrict Litigation Fee Schedule (Item 3). Blacklined versions of these revised fee items are included as an attachment. In addition, by this summer, the Administrative Office will provide courts with updated fee charts explaining how they should administer the new fee for accounting purposes, as well as guidance regarding various aspects of the fee.

If you have any questions concerning these changes, please contact staff in the Court Services Office – either Mary Fritsche or Candice Murphy-Farmer in the Operations Branch, or David Levine, who staffs the Court Administration and Case Management Committee.

Attachment

**Blackline of Changes to the Miscellaneous Fee Schedules
Effective Date: September 1, 2018**

Item 4 of the Court of Appeals Miscellaneous Fee Schedule

4. (a) For reproducing any document and providing a copy in paper form, \$.50 per page. This fee applies to services rendered on behalf of the United States if the document requested is available through electronic access.
- (b) For reproducing and transmitting in any manner a copy of an electronic record stored outside of the court's electronic case management system, including but not limited to, document files, audio and video recordings (other than a recording of a court proceeding), \$31 per record provided.

Item 4 of the District Court Miscellaneous Fee Schedule

4. (a) For reproducing any record ~~or paper~~ and providing a copy in paper form, \$.50 per page. This fee shall apply to paper copies made from either: (1) original documents; or (2) microfiche or microfilm reproductions of the original records. This fee shall apply to services rendered on behalf of the United States if the record ~~or paper~~ requested is available through electronic access.
- (b) For reproducing and transmitting in any manner a copy of an electronic record stored outside of the court's electronic case management system, including but not limited to, document files, audio recordings, and video recordings, \$31 per record provided. Audio recordings of court proceedings continue to be governed by a separate fee in item 5 of this schedule.

Item 2 of the U.S. Court of Federal Claims Fee Schedule

2. (a) For reproducing any record ~~or paper~~ and providing a copy in paper form, \$.50 per page. This fee shall apply to paper copies made from either: ~~(a)~~ (1) original documents; or ~~(b)~~ (2) microfiche or microfilm reproductions of the original records. This fee shall apply to services rendered on behalf of the United States if the record ~~or paper~~ requested is available through electronic access.
- (b) For reproducing and transmitting in any manner a copy of an electronic record stored outside of the court's electronic case management system, including but not limited to, document files, audio recordings, and video recordings, \$31 per record provided. Audio recordings of court proceedings continue to be governed by a separate fee in item 9 of this schedule.

Item 3 of the Judicial Panel on Multidistrict Litigation Fee Schedule

3. (a) For reproducing any record ~~or paper~~ and providing a copy in paper form, \$.50 per page. This fee shall apply to paper copies made from either: (1) original documents; or (2) microfiche or microfilm reproductions of the original records. This fee shall apply to services rendered on behalf of the United States if the record ~~or paper~~ requested is available through electronic access.
- (b) For reproducing and transmitting in any manner a copy of an electronic record stored outside of the court's electronic case management system, including but not limited to, document files, audio recordings, and video recordings, \$31 per record provided.



Item 1 of the Bankruptcy Court Miscellaneous Fee Schedule

1. (a) For reproducing any document and providing a copy in paper form, \$.50 per page. This fee applies to services rendered on behalf of the United States if the document requested is available through electronic access.
- (b) For reproducing and transmitting in any manner a copy of an electronic record stored outside of the court's electronic case management system, including but not limited to, document files, audio recordings, and video recordings, \$31 per record provided. Audio recordings of court proceedings continue to be governed by a separate fee under item 3 of this schedule.