§ 2302. Award of costs and allowances

1. Upon a motion the court may award costs to any party in such amount as it determines not exceeding $20 to each party, except in counties within the City of New York, where such amount shall not exceed $40.

2. Upon rendering a decree or in granting or denying an application to vacate a decree the court may award as costs such sum as it deems reasonable to the petitioner and to any other party who has succeeded in whole or in part in a contest or whose attorney, in the absence of a contest, has rendered services of substantial benefit to him, her or it, or to the estate, not exceeding

(a) in counties within the City of New York:

(i) $100 where there has not been a contest, or

(ii) $300 where there has been a contest and $300 for each day, less one, necessarily occupied in the trial or hearing and in addition $100 for each day necessarily occupied in preparing therefore and $100 additional if a motion for a new trial is granted.

(b) in all other counties:

(i) $50 where there has not been a contest, or

(ii) $150 where there has been a contest and $150 for each day, less one, necessarily occupied in the trial or hearing and in addition $50 for each day necessarily occupied in preparing therefore and $50 additional if a motion for a new trial is granted.

3. In a contested probate proceeding:

(a) Costs payable out of the estate or otherwise may be awarded (1) to an unsuccessful contestant only if he, she or it be a guardian ad litem or guardian, committee or conservator of a person under disability; (2) to an unsuccessful proponent named as executor in the will when propounded by him, her or it in good faith as the last will of the decedent; and (3) to a person named as executor in a prior will on file in the court that is not admitted to probate when such person participates in the proceeding in good faith. Such nominated executor, guardian ad litem, guardian, committee or conservator, whether successful or not may be awarded costs and an allowance in such sum as

the court deems reasonable for his, her or its counsel fees and other expenses incurred in the contest or attempt to sustain the will. The court may direct that such costs and allowances in whole or in part be payable by an unsuccessful contestant except that an award of the successful proponent's counsel's fees may only be allowed where the court finds that the contest was brought in bad faith or was frivolous.

(b) Either before or after the decree granting probate the court may order that a copy of the minutes of the trial be furnished to a contestant for the purposes of appeal and charge the expense thereof initially to the estate if satisfied that the contest is in good faith. If the contestant be unsuccessful upon the appeal and he, she or it is not the guardian of an infant, the committee of an incompetent, the conservator of a conservatee or a guardian ad litem he, she or it shall refund to the estate any amount so paid by the estate for the minutes.

4. In a proceeding for probate of a will when the public administrator or county treasurer has been directed to probate a will or continue the proceedings for the probate thereof, the court may award to either of them such sum as it deems reasonable for his, her or its counsel fees and other expenses necessarily incurred therein.

5. After appeal, pursuant to the direction of the appellate court the court may award a fiduciary such sum as it deems reasonable for counsel fees and other expenses necessarily incurred on the appeal.

6. In a proceeding to construe a will or after appeal in such a proceeding, pursuant to the direction of the appellate court the court may award to a fiduciary or any party to the proceeding such sum as it deems reasonable for his, her or its counsel fees and other expenses necessarily incurred in the proceeding or on the appeal.

7. Upon a final or intermediate judicial settlement a fiduciary may be awarded for his, her or its expenses and counsel fees such sum as the court deems reasonable not exceeding:

(a) within the counties of the City of New York: $100 for each day necessarily occupied in preparing the account and in drawing, entering and executing the decree. Any sum so awarded may be in addition to any

costs, allowances or commissions otherwise authorized and awarded by the court.

(b) in all other counties: $ 50 for each day necessarily occupied in preparing the account and in drawing, entering and executing the decree. Any sum so awarded may be in addition to any costs, allowances or commissions otherwise authorized and awarded by the court.

8. In a proceeding for disposition of real property a fiduciary may be awarded out of the proceeds of sale his, her or its commissions and such sum as the court deems reasonable for counsel fees and expenses necessarily incurred in the proceeding.