



**PHD Top 5**  
**Reasonable Attorney Fees**  
 March 10, 2021

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**PHD TOP 5**

- ❖ BOND
- ❖ VENUE
- ❖ COMPELLING AND REMOVAL OF FIDUCIARY
- ❖ FEES
- ❖ CLOCK IT!

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**Is a Bond Required?**

**§ 28A-8-1. Bond required before letters issue; when bond not required.**

(a) **Except as otherwise provided in subsection (b) of this section, every personal representative, before letters are issued, shall give bond, conditioned as provided in G.S. 28A-8-2.**

(b) **No bond shall be required of:**

- (1) A resident executor, unless the express terms of the will require a resident executor to give bond;
- (2) A nonresident executor (or a resident executor who moves from this State subsequent to that executor's appointment) who has appointed a resident agent to accept service of process as provided in G.S. 28A-4-2(a) [28A-4-2(d)], when the express terms of the will excuse a nonresident executor from giving bond;
- (3) A nonresident executor, when there is a resident executor named who has qualified as coexecutor unless the express terms of the will require them to give bond, or the clerk of superior court finds that such bond is necessary for the protection of the estate; or
- (4) A personal representative appointed solely for the purpose of bringing an action for the wrongful death of the decedent until such time as the personal representative shall receive property into the estate of the decedent; or
- (5) A personal representative that is a trust institution licensed under G.S. 53-159;
- (6) A personal representative of an intestate who resides in the State of North Carolina when all of the heirs of the decedent are over 18 years of age and file with the clerk of superior court a written waiver instrument agreeing to relieve the personal representative from the necessity of giving bond; or
- (7) A personal representative where the personal representative receives all the property of the decedent;
- (8) An administrator with the will annexed who resides in the State of North Carolina when all of the devisees of the decedent are over 18 years of age and file with the clerk of superior court a written waiver instrument agreeing to relieve the administrator with the will annexed of the necessity of giving bond. (C.C.P., ss. 467, 468; 1870, c. 93; Code, ss. 1387, 1388, 1169; Rev., s. 29; c. 3, s. 39; 1923, c. 56; 1967, c. 41, s. 1; 1973, c. 1326, s. 3; 1975, c. 300, s. 3; 1977, c. 29; 1981, c. 428; c. 599, ss. 5, 6; 2011-339, s. 5; 2011-344, s. 4.)




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### Is a Bond Required?

• § 28A-26-4. Bonds.

(a) Subject to the exception in subsection (b), any personal representative, including a domiciliary personal representative, who is granted ancillary letters of administration in this State must satisfy the bond requirements prescribed in Article 8 of this Chapter.

(b) Where a citizen or subject of a foreign country, or of any other state or territory of the United States, by will sufficient according to the laws of this State, and duly probated and recorded in the proper county, devises to that person's executor, with power to sell and convey, real property situated in this State in trust for a person named in the will, the power being vested in the executor as such trustee, the executor may execute the power without giving bond in this State. (1911, c. 176; C.S., s. 37; Ex. Sess. 1920, c. 86; 1945, c. 652; 1957, c. 320; 1969, c. 1067, ss. 1, 2; 1973, c. 1329, s. 3; 2011-344, s. 4.)



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### Venue – Decedents’ Estates (NCGS 28A-3-1)

§ 28A-3-1. Proper county.

The venue for the probate of a will and for all proceedings relating to the administration of the estate of a decedent shall be:

- (1) In the county in this State where the decedent was domiciled at the time of the decedent's death; or
- (2) If the decedent had no domicile in this State at the time of death, then in any county wherein the decedent left any property or assets or into which any property or assets belonging to this estate may have come. If there be more than one such county, that county in which proceedings are first commenced shall have priority of venue; or
- (3) If the decedent was a nonresident motorist who died in the State, then in any county in the State.



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### Venue – Decedents’ Estates (NCGS 28A-3-2)

- Upon “commencement of a proceeding” or when multiple proceedings
  - Commencement of a proceeding – application for probate or for letter of administration or for letters of collection (Article 11) (NCGS 28A-3-2(b))
- Who decides?
- Transfer the matter to Superior court



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### Venue – Decedents’ Estates

- § 28A-3-5. Waiver of venue.

If questions as to priority of venue are not raised within three months after the issuance of letters testamentary or letters of administration to the personal representative, the validity of the proceeding shall not be affected by any error in venue. (1973, c. 1329, s. 3.)



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### Venue - Incompetency

§ 35A-1103. Jurisdiction; venue.

(b) Venue for proceedings under this Subchapter shall be in

the county in which the respondent resides or

is domiciled or

is an inpatient in a treatment facility.

If the county of residence or domicile cannot be determined, venue shall be in the county where the respondent is present.



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### Venue - Incompetency

- § 35A-1104. Change of venue.

The clerk, on motion of a party or the clerk's own motion, may order a change of venue upon finding that no hardship or prejudice to the respondent will result from a change of venue. (1987, c. 550, s. 1.)

See RRK 7.6



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## Venue -- Guardianship

- § 35A-1204. Venue.

(a) Venue for the appointment of a guardian for an incompetent person is in the county in which the person was adjudicated to be incompetent unless the clerk in that county has transferred the matter to a different county, in which case venue is in the county to which the matter has been transferred.



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## COMPELLING & REMOVAL OF FIDUCIARIES

LearningCenter

ESTATES CLASS  
Estates: Compelling  
Number: 20-00000  
Details

In this course, you will learn about the Clerk of Superior Court's statutory duty to compel (or force) the filing of accounts, accounting, and estate reports when there are will that are true. You will also be able to describe the estate-plan alternatives for these!

### Putting It Into Action: Civil Contempt and the Clerk

Meredith Smith  
Clerk of Superior Court Virtual Series  
December 2020



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## FEES

- Motion Fee –
  - Notice of Hearing Fee -- \$20 to hear a ***motion***
- Alias & Pluries Summons
  - Fee only applicable in civil cases; No A&P fees in E and SP cases
- Elective Share \$120 or \$200
  - Date of Death on or after 12/1/2020 -- \$200
- Copy fee v. certified/exemplified fees or both
  - Whichever is the greater charge – NCGS 7A-308(b)
- \$20 PYCL fees – NCGS 28A-25-6
  - When application (E-432) filed – NCGS 7A-307(a)(2b)
  - Court can always administer funds on their own motion



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### Emergency Directive #5

#### Emergency Directive 5

When it is required that any pleading, motion, petition, supporting affidavit, or other document of any kind to be filed in the General Court of Justice be verified, or that an oath be taken, it shall be sufficient if the subscriber affirms the truth of the matter to be verified by an affirmation or representation in substantially the following language:

"I (we) affirm, under the penalties for perjury, that the foregoing representation(s) is (are) true.

(Signed) \_\_\_\_\_"

This emergency directive does not apply to wills to be probated, conveyances of real estate, or any document that is not to be filed in the General Court of Justice.



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### Emergency Directive #15

#### Emergency Directive 15

To further minimize foot traffic in the courthouses, attorneys and litigants are encouraged to submit filings by mail to the greatest extent possible. Beginning 1 June 2020, pleadings and other documents delivered by the United States Postal Service to the clerk of superior court shall be deemed timely filed if received within five business days of the date the filing is due. The extension of filing deadlines in this emergency directive does not apply to pleadings and other documents filed in proceedings for forfeiture of bail bonds under Part 2 of Article 26 of Chapter 15A of the General Statutes.



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### Popular Emergency Directives

- #5 – Notary not required?
  - Affirmations rather than a notary public
- #15 – All timeframes are extended by 5 days?
  - This does not change the statutory timeframes
  - Open your mail; "received" by CSC
- #18 – Extra Affidavit to be served with SUME?
  - Expired on January 13<sup>th</sup>



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### Small Estate Affidavits

Can they be reopened?

Legal Memo --

<https://juno.nccourts.org/sites/default/files/media/reopening-or-opening-estates-and-class-action-settlements.pdf>



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### Small Estates -- Reopening

<https://juno.nccourts.org/sites/default/files/media/reopening-or-opening-estates-and-class-action-settlements.pdf>  
Excerpt:

**3. Collection by Affidavit.** (G.S. §§28A-25-1, -25-1.1)

If the estate was previously administered by this method and the personal property, when added to the previous amount of estate assets, does not exceed statutory maximum amount in effect at the time of decedent's death<sup>5</sup>, the personal property may be collected using this method and the personal property distributed in accordance with these statutes.

Procedure: Person requesting the personal property should obtain a certified copy of the supplemental<sup>6</sup> "AFFIDAVIT FOR COLLECTION OF PROPERTY OF DECEDENT" (AOC-E-203 A or B) in order to obtain the personal property. Upon obtaining the personal property the collector will complete and file with your office an "AFFIDAVIT OF COLLECTION, DISBURSEMENT AND DISTRIBUTION" (AOC-E-204).

Costs: Collect the fee for a certified copy of the form.

Do not collect an additional filing fee, because the fee was previously collected.

Do collect the cents on every \$100.00 fee, in effect at the time of decedent's death, if the maximum fee has not been reached. If the maximum fee has been reached, then collect the minimum fee.



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Do not collect an additional filing fee, because the fee was previously collected.  
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### Name changes with only one parent

- REFUSED in the parent #2 (or father) box normally indicates that the mother was legally married and there is a presumption of a legal father but his information is not listed. And if there is a legal father – his consent would be required for the minor name change.
- If there is no father (none on birth certificate, no legitimation, no acknowledgement of paternity, unknown father) – then it is possible that you will not have a father to consent to the name change. There is no other parent who has the legal standing to consent.



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### Name changes with only one parent

**CSC Manual – page 151.5**

The consent of the natural father of a child born out of wedlock and who has not been legitimated is not required. [In re Dunston, 18 N.C. App. 647, 197 S.E.2d 560 (1973).]

If the child is born out of wedlock, has not been legitimized, but there has been an acknowledgement of paternity, the father must consent to the name change request. [In re Crawford, 134 N.C. App. 137, 517 S.E.2d 161 (1999).]

**Examples.** Acknowledgment can include the father's name on the birth certificate, or some form of paternity acknowledgement, such as a voluntary support agreement, an order of paternity, or the father is paying child support.



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### Name changes with only one parent

Legitimation v Paternity  
<http://civil.sog.unc.edu/legitimation-versus-paternity-whats-the-difference/>  
Blogpost by Sara DePasquale, Associate Professor, UNC SOG



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### Removal of Bar – SP-211

- NCGS 14-409.43 – the findings that are required to be submitted to federal database within 48 hours. This creates a record that “bars” the person from purchasing a firearm.
- Petition a district court judge for the removal of the “bar” – Form SP-211.
- SPC filing – no fee
- If the respondent had a previous SPC filing – the most recent SPC file would be the proper file.
- The hearing on this matter is confidential. Talk to Chief District Judge
- Appeals to Superior Court – de novo
- RRR -- 8.12



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### Removal of Bar not a result of Restoration

- Restoration to Competency Bulletin  
[https://www.sog.unc.edu/sites/www.sog.unc.edu/files/2016-05-02%2020151050%20SSLB%2045%20Adult%20Guardianship\\_for%20wordsflow.pdf](https://www.sog.unc.edu/sites/www.sog.unc.edu/files/2016-05-02%2020151050%20SSLB%2045%20Adult%20Guardianship_for%20wordsflow.pdf)  
Meredith Smith, Associate Professor, UNC SOG

**Footnote 113 on page 19**

113. See G.S. 35A-1130(d). The right to carry a firearm is not automatically restored upon entry of the clerk's order. The individual (former ward) is prohibited from purchasing a firearm through the National Instant Criminal Background Check System (NICS) until the individual obtains a separate order from a district court judge to remove the individual's disability designation under NICS. See G.S. 122C-54.1; 18 U.S.C. § 922(g).



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### YEAL – Types of Property?

§ 30-18. From what property allowance assigned.  
Such allowance shall be made in **money or other personal property** of the estate of the deceased spouse.

- Yes -- \$\$\$
- Yes – checks made payable to deceased or estate of
- Yes – royalty checks
- Yes – visa refund cards
- Yes – vehicles, boats, trailers, mobile homes
- No – “contents of safe deposit box”
- No – “medical records”
- No – proceeds from sale of real property\*
- No – Wrongful death proceeds



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### Primary questions

- Who may request attorneys' fees to be paid from an estate?
- what services rendered allow for payment of attorneys' fees from an estate?
- Whether services rendered are outside ordinary routine administration?
- whether services rendered are necessary and reasonable?



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### Focus

- determining the necessity of the services rendered.
- Determining the reasonableness of the fee requested.
- best practices for processing a petition for attorneys' fees.



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First things first..... what is the applicable law?



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Attorneys' fees When the PR is an attorney

G.S. 28A-23-4. Counsel fees allowable to attorneys serving as representatives.

The clerk of superior court, in the discretion of the clerk of superior court, is authorized and empowered to allow counsel fees to an attorney serving as a personal representative, collector or public administrator (in addition to the commissions allowed the attorney as such representative, collector or public administrator) where such attorney in behalf of the estate the attorney represents renders professional services, as an attorney, which are beyond the ordinary routine of administration and of a type which would reasonably justify the retention of legal counsel by any such representative, collector or public administrator not licensed to practice law. (1957, c. 375; 1973, c. 1329, s. 3; 1977, c. 814, s. 3; 2011-344, s. 4.)



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Attorneys' fees When the Guardian of the estate is an attorney

- These fee requests are treated the same!
- G.S. 35A-1269. Commissions. The clerk shall allow commissions to the guardian for his time and trouble in the management of the ward's estate, in the same manner and under the same rules and restrictions as allowances are made to executors, administrators and collectors under the provisions of G.S. 28A-23-3 and G.S. 28A-23-4. (1987, c. 550, s. 1; 1989, c. 473, s. 21.)



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### What our Appellate courts have said

- The need for legal services depends upon the circumstances of each case and may be affected by the nature of the assets, the number, age and location of heirs and beneficiaries, and the care with which the decedent attended to his business affairs. Matthews v. Watkins, 91 N.C.App. 640, 373 S.E.2d 133 (1988), aff'd per curiam, 324 N.C. 541, 379 S.E.2d 857 (1989).
- There may be some services rendered by a lawyer personal representative which, in the context of a particular estate, constitute legitimate legal services beyond routine administration even though these tasks might be undertaken by a nonlawyer personal representative; for example: lease negotiations, conferences with Internal Revenue Service Agents, or negotiations to sell real or personal property. In this last category, the personal representative may not be required to have legal assistance, but prudence may dictate that to retain legal counsel would be reasonably justified. We shall not attempt to define all services which justify the payment of attorney's fees under G.S. 28A-23-4. Id.
- The attorney fiduciary should submit to the clerk a written request for fees supported by a statement detailing the specific legal services rendered. Id.



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### What services are beyond ordinary routine administration?

- Did the attorney prosecute for, or defend, the estate in any estate proceedings, guardianship proceedings, special proceedings, civil actions, or other type of litigation?
- Did the attorney handle any issues with the IRS or NC Department of Revenue on behalf of the estate?
- Did the attorney handle matters on behalf of the estate before any type of government agency?
- Did the estate involve complex assets or require complex methods for handling and distributing the estate's assets?
- Did the estate involve an especially difficult family creating difficulties for the estate?
- Was the process to find and locate heirs and devisees of the estate especially complex or difficult?



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### Continued – services beyond ordinary routine administration?

- Did the attorney draft any deeds, contracts, claim releases, demand letters, or other legal documents for the estate?
- Did the attorney resolve any trust, corporation, or partnership issues on behalf of the estate?
- Did the will or any other estate planning documents require legal research for the fiduciary to properly fulfill the terms of those documents?
- Did the attorney initiate Medicaid planning or strategies for the estate?
- Did the attorney initiate tax planning or tax strategies for the estate?
- ***There is no defined list*** of the types of work that would fall within the definition of work beyond ordinary routine administration. The specific facts and circumstances of each estate must be considered when making this determination.



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### Attorneys' fees when the PR is not an attorney

- Pursuant to G.S. 28A-23-3(d)(1) the Clerk of Superior Court has the authority to allow attorneys' fees to a non-attorney PR, to be paid out of the estate, when the clerk determines the fees are reasonable and necessary for the management of the estate. In re Taylor, 242 N.C. App. 30, 774 S.E.2d 863 (2015)
- A personal representative is authorized to employ persons, including attorneys, auditors, investment advisors, appraisers or agents to advise or assist the personal representative in the performance of his or her administrative duties. G.S. § 28A-13-3(a)(19)
- § 28A-23-3 Commissions allowed personal representatives; representatives guilty of misconduct or default.
  - (d) Nothing in this section shall be construed to:
  - (1) Prevent the clerk of superior court from allowing reasonable sums for necessary charges and disbursements incurred in the management of the estate.



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### Continued - Attorneys' fees when the PR is not an attorney

- If a personal representative's attorneys' fees are not permitted by the Clerk, any remaining unpaid fees remain an individual debt between the attorney and the personal representative.
- When a personal representative retains an attorney (or other professional) to assist in the administration of the estate, the personal representative is personally liable for the fees. The fees are not a debt of the estate, and the attorney does not become a creditor of the estate. If the attorney fees are proper, they will be allowed the executor in his or her settlement. Kelly v. Odum, 139 N.C. 278, 51 S.E. 953 (1905).



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### Attorney's fees when the Guardian of the estate is not an attorney

- A guardian is authorized to employ persons, including attorneys, to advise or assist the guardian in the performance of the guardian's duties. G.S. §§ 35A-1251(14) (incompetent's estate); 35A-1252(11) (minor's estate)
- Attorney fees are a proper expense to be charged in the guardian's account if reasonable in amount and expended for the benefit of the ward in connection with the proper administration of the ward's estate. Maryland Casualty Co. v. Lawing, 225 N.C. 103, 33 S.E.2d 609 (1945).



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### What is reasonable and necessary for the management of the estate?

- This is inherently a subjective question that Clerks must consider individually for each estate.
- When the fiduciary is not an attorney, the question is not whether the services rendered by the attorney are beyond ordinary administration. Instead, the question for the Clerk is whether the fees requested are necessary and reasonable for the management of the estate.
- There is no requirement that the services rendered by the fiduciary's attorney be for work beyond ordinary administration. However, if the services rendered are for work outside normal routine administration, it is likely the services rendered were necessary for the estate.
- If the services rendered appear to be within what the Clerk considers routine administration, it is appropriate for the Clerk to require the fiduciary, and his or her attorney, to illustrate to you in the fee petition why the services rendered are necessary and reasonable for the estate to pay as a necessary expense.



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### Factors to consider in determining reasonable attorneys' fees

- In general, North Carolina appellate courts require the following factors to be addressed when a judicial officer makes findings of fact as to reasonable attorneys' fees:
    - The time and labor the attorney expended
    - The skill required for the work
    - A customary fee for like work (customary in the geographic area, particularly in the relevant field of law)
    - The experience and ability of the attorney
- See GE Betz, Inc. v. R.C. Conrad, 231 N.C. App. 214, 242-46 (2013); See also N.C. R. Prof. Conduct 1.5.



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### Hourly Rates

- There is competing case law regarding whether judicial officials may take judicial notice of the customary hourly rates for local attorneys performing the same services and having the same level of experience as an attorney representing a party seeking an award of attorneys' fees.
- In Simpson v. Simpson, 209 N.C. App. 320, 703 S.E.2d 890 (2011), the North Carolina Court of Appeals held that a district court judge, in the context of an award of attorneys' fees in a child custody modification action, may take, but is not required to take, judicial notice of the customary hourly rates for local attorneys performing the same services and having the same experience as the attorney representing the party seeking the fee award.
- In WFC Lynnwood I LLC v. Lee of Raleigh, Inc., 259 N.C. App 925, 817 S.E.2d 437 (2018), the North Carolina Court of Appeals held, in the context of an award of attorneys' fees in commercial lease breach of contract action, a judge's judicial notice of comparable fees was insufficient evidence, on its own, to support the judge's finding that hourly rate was reasonable in its award of attorneys' fees.



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### Continued – Hourly Rates

- The dissent in Lynnwood held that it would've upheld the award of attorneys' fees based on the holding in Simpson.
- It is worth noting that in a footnote in Simpson, the NC Court Appeals indicated that the better practice is for parties to provide evidence of the customary local rates rather than depending upon judicial notice.
- Given the competing case law, and the fact that neither case involved an estate, the best practice is to require at least, some statement about customary hourly rates in the fee petition or supporting affidavits.
- If it is clear to you that the hourly rate sought falls outside of what you believe is a customary hourly rate in your jurisdiction for the work performed by an attorney with a similar level of experience, it is appropriate to request the attorney to submit additional evidence to you of the reasonableness of the hourly rate. It is common for attorneys to submit affidavits from other attorneys in a jurisdiction in order to prove reasonableness of an attorneys' fee.



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### Common Questions

- Is a Petition for Approval/Payment of Attorney Fees an Estate Proceeding?
  - There's no current statute or case law clearly indicating that a fiduciary's request for attorneys' fees, or request for a commission, is an estate proceeding pursuant to Article 2 of Chapter 28A. However, based on G.S. 28A-2-4(a), it is possible that a petition for attorneys' fees or commission could be treated as an estate proceeding.
- Can the beneficiaries of the estate agree or consent to the attorneys' fees? If so, does the clerk still sign an order?
  - Whether a fiduciary's attorneys' fee request is necessary and reasonable is a determination that the Clerk must always make. The clerk must always enter an order approving the attorneys' fees. If the beneficiaries of an estate consent or agree to the fee request, this is certainly good evidence of the necessity and reasonableness of the fee request. However, the Clerk's inquiry does not stop there. The petition should still articulate why the fees are necessary and reasonable.



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### Common Questions

- How should we handle a fiduciary's request for attorneys' fees when it appears the attorney has done most of the work, including tasks that would usually be considered ordinary routine administration?
  - **Remember:** The need for legal services depends upon the circumstances of each case. Mathews v. Watkins, 91 N.C.App. 640, 373 S.E.2d 133 (1988), aff'd per curiam, 324 N.C. 541, 379 S.E.2d 857 (1989).
    - If the fees appear to be for tasks that would normally be considered routine administration, you can request more information as to why attorneys' fees should be granted for the work performed.
  - **Also Remember:** You have a mechanism in G.S. 28A-23-3(a) to reduce commissions of a fiduciary when attorneys' fees have been paid by the estate.
    - "...in determining the maximum commissions allowable under this subsection, the clerk of superior court may take into consideration fees paid by the estate for professional services performed in the ordinary course of administering the estate, including services performed by attorneys and accountants. However, the clerk is not required to reduce the maximum commissions allowed by the aggregate fees paid to professionals on a dollar-for-dollar basis."



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### Common Questions

- Can the fee petition include paralegal fees?
  - Yes. In *Lea Co. V. North Carolina Board of Transportation*, 323 N.C. 691, 695 (1989), the North Carolina Supreme Court held "A trial judge, acting within his discretion, may consider and include in the sum he awards as attorneys' fees the services expended by paralegals and secretaries acting as paralegals if, in his opinion, it is reasonable to do so."
  - The fees sought should be for actual paralegal work and generally should not include work that is "largely clerical in nature or, even if not, [that is] part of the ordinary office overhead and ought to be subsumed in the hourly rate of the attorneys." *Id.* at 696.
  - Parties asking for paralegal fees should provide details in the petition of the legal nature of the paralegals' work. Beyond assessing the type of work done, the trial court also will examine the overall reasonableness of a paralegal's hourly rate and the number of hours billed.



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### Appeal of an order for attorneys' fees

- Should a party appeal the Clerk's order for attorneys' fees, the appeal to the Superior Court is pursuant to G.S. 1-301.3. In *re Taylor*, 242 N.C. App. 30, 774 S.E.2d 863 (2015)
- Appeal of the Clerk's order is "on the record."
- The clerk when rendering a decision on the reasonableness of the attorneys' fees must hear evidence and enter an order that makes sufficient findings of fact and conclusions of law on the issue of reasonableness. This allows for a meaningful review of the issue on appeal to superior court under GS 1-301.3.
- Whether you fully grant a petition for attorneys' fees, partially deny and partially grant a petition for attorneys' fees, or fully deny a petition for attorneys' fees, the order you enter should be based on evidence you receive, and your order should illustrate your interpretation of the evidence in your findings of fact and conclusions of law.



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### Appeal of an order for attorneys' fees – Best practices

- 1. Fiduciary must sign petition.** It is the fiduciary who is making the request that the estate pay the attorneys' fees instead of the fiduciary personally. The request is the fiduciaries to make, not the fiduciary's attorney. It's perfectly appropriate for the attorney to also sign the pleading, though.
- 2. The petition should be verified or accompanied by supporting affidavits.** No matter whether you believe the petition for attorneys' fees is contested or will be appealed, you need competent evidence to support your order. By requiring verified petitions or supporting affidavits, you will at least have a sworn statement from the fiduciary and/or the attorney. If you do not hold a hearing, absent a verified petition or supporting affidavits, you do not have competent evidence to support your order if it is appealed.
- 3. Hold a hearing.** If you know the petition for attorneys' fee is contested or if you have reason to believe your order will get appealed, notice it and hold a hearing.



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### Final thoughts

- The fiduciary has the burden to prove to you that the estate should pay the attorneys' fees petition.
- The fee petition should explicitly detail what work was performed and why the work is beyond ordinary routine administration, or why the work is necessary and reasonable and therefore proper for the estate to pay the attorneys' fees.
- If you are not satisfied with the information provided to you by the fiduciary and/or the attorney, you can request more information to supplement what he or she has already provided in the fee petition.
- If you are not satisfied with the information provided, or if you aren't able to get sufficient information to justify the attorneys' fees requested, **hold a hearing!**



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## LearningCenter

judicial education online

Home Learning Leadership Training Performance New Connect

ONLINE CLASS

### Estates: Attorney Fees

Duration 1 hour



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Home Resources > References > Assistant And Deputy Cl...

### Assistant and Deputy Clerks Directory by County

Summary

Each directory listing contains the clerk's mailing address, P.O. Box number, County Box number, fax number, and published/unpublished telephone number for the Clerk's office and working divisions. To locate the contact information for a clerk's office, select the county name from the list below.

Adams	Carroll	Champaign	Franklin
Albany	Cass	Clark	Greene
Alton	Champaign	Clay	Hamilton
Aurora	Christian	Clinton	Hancock
Bureau	Coates	Cook	Hardin
Calhoun	DeKalb	Crawford	Heard
Campaign	DeWitt	Dallas	Henry
Carroll	DuPage	Decatur	Jefferson
Cass	Edwards	DeKalb	Johnson
Champaign	Effingham	Franklin	Madison
Clark	Greene	Greene	Marion
Clinton	Hamilton	Hamilton	McDonough
Cook	Hancock	Hardin	McHenry
Crawford	Hardin	Heard	McLean
Dallas	Henry	Henry	Madison
Decatur	Jefferson	Jefferson	Manly
DeKalb	Johnson	Johnson	Marion
DuPage	Madison	Madison	Marshall
Edwards	Marion	Marion	Massac
Effingham	Marshall	Marshall	Menard
Franklin	Massac	Massac	Monroe
Greene	McDonough	McDonough	Montgomery
Hamilton	McHenry	McHenry	Morgan
Hancock	McLean	McLean	Moultrie
Hardin	Madison	Madison	Murray
Heard	Manly	Manly	Noble
Henry	Marion	Marion	Polk
Jefferson	Marshall	Marshall	Rock
Johnson	Massac	Massac	Salmon
Madison	McDonough	McDonough	Shelby
Marion	McHenry	McHenry	Shelby
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**Thank You**

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